

**UNITED STATES EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE
MULTI-STAKEHOLDER GROUP ADVISORY COMMITTEE MEETING
JUNE 27-28, 2016**

SUMMARY OF PROCEEDINGS

**U.S. DEPARTMENT OF THE INTERIOR
PREPARED: JULY 2016**

I. Introduction

The U.S. Department of the Interior (DOI), with Kris Sarri presiding as Designated Federal Official (DFO) and Paul Mussenden and Judy Wilson presiding as acting DFO, convened the eighteenth meeting of the U.S. Extractive Industries Transparency Initiative (USEITI) Multi-Stakeholder Group Advisory Committee (MSG) on June 27-28, 2016, in Washington, DC. The purpose of the meeting was to receive updates from the Independent Administrator on various aspects of developing the online report and executive summary for the 2016 USEITI Report and how to move forward with these; discuss communications and state and tribal opt-in efforts; and discuss the prospects for proceeding with mainstreaming of USEITI reporting into US government processes, the inclusion of beneficial ownership information, and validation of US EITI Reports.

Please note that, throughout this meeting summary, comments made by presenters, Independent Administrator team members, other non-MSG members, and those directly pertaining to an MSG decision are attributed to specific speakers. Other comments are provided without attribution in order to foster open discussion among MSG members excepting final deliberations prior to specific MSG decisions.

Interested parties are asked to contact USEITI at useiti@ios.doi.gov or 202-208-0272 with any questions, comments, or concerns regarding the content of this meeting summary.

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II. Summary of Endorsements, Decisions, Approvals, and Action Items

A. Endorsements

- No endorsements were made by the MSG at the June 2016 MSG meeting.

B. Decisions

- The MSG forwarded the content created by the IA about the Abandoned Mine Land (AML) Reclamation Program to 18F. *(see page 8)*
- The MSG approved the Montana template as a general template for state and tribal reporting, subject to tailoring by each entity participating. *(see page 9)*
- The MSG forwarded the US budget, audit, and assurance processes content created by the IA to 18F while the IA works with the Online Advisory Work Group and MSG subject matter experts to further revise any content that needs further work. *(see page 13)*
- The MSG forwarded the coal excise tax contextual information to 18F for inclusion in the 2016 USEITI Report, with additional review and comment to be provided by industry sector coal industry representatives, as needed. *(see page 14)*
- The MSG approved the Executive Summary Outline with revisions suggested by MSG members: inclusion of background on USEITI, guidance about how to navigate the online report, and year-to-year comparative information. *(see page 15)*

C. Approvals

- The MSG approved the March 2016 MSG meeting summary. *(see page 5)*
- The MSG approved the updated Terms of Reference. *(see page 5)*
- The MSG approved the 2015 USEITI Annual Activity Report for submission to the International EITI Secretariat. *(see page 6)*
- The MSG approved the renaming and reconstitution of the Reporting and Reconciliation Work Group as the “Beneficial Ownership Work Group.” *(see page 21)*
- The MSG approved the undertaking of a pre-feasibility exercise for mainstreaming of USEITI. *(see page 23)*

D. Confirmations

- No confirmations were made by the MSG at the June 2016 MSG meeting.

E. Action Items

- **Co-Chairs:**
 - Review and distribute meeting summary from June 2016 MSG meeting to MSG members.
 - Develop agenda for November 2016 MSG meeting.
- **USEITI Secretariat:**

- Find usage information about non-service government websites to compare to usage of the USEITI site. *(see page 6)*
- Work with the International EITI Secretariat and the IA to conduct a pre-feasibility exercise for mainstreaming of USEITI. Report on results at November MSG meeting. *(see page 23)*
- Consider the role and participation of the US State Department in the USEITI process. *(see page 26)*
- Work with the International Secretariat and the IA to explore the prospects and risks for USEITI validation and provide a recommendation to the MSG at the November 2016 MSG meeting. *(see page 27)*
- MSG decisions will be recorded in an updated MSG Decision Matrix by the Secretariat. *(see page 28)*
- **State and Tribal Opt-in Subcommittee**
 - Consider how the North Slope Borough case study should be revised to reflect Alaska's unique circumstances. *(see page 8)*
 - State and Tribal Opt-in Subcommittee and the IA ask state-level contacts about additional data sources for county write-ups. *(see page 14)*
 - Prepare an amendment/extension application for adapted implementation. *(see page 26)*
- **CSO Sector**
 - Search for additional County-level data sources and provide them to the IA for consideration to be included in future years of USEITI reporting. *(see page 14)*
- **Beneficial Ownership Work Group**
 - Meet with technical experts, as needed, and provide a report and proposal of a draft roadmap for compliance with the EITI beneficial ownership disclosure requirement to the MSG at the November 2016 MSG meeting. *(see page 21)*
- **Independent Administrator (Deloitte)**
 - Articulate a formal process for the development and final approval of content for USEITI reports. *(see page 7)*
 - Clearly articulate the distinction between reconciled federal data and un-reconciled state and tribal data in the report. *(see page 8)*
 - State and Tribal Opt-in Subcommittee and the IA ask state-level contacts about additional data sources for county write-ups. *(see page 14)*
 - Include year-to-year comparison information between the 2015 and 2016 USEITI reports in the 2016 Report. *(see page 15)*
- **USEITI Process Facilitator (Consensus Building Institute)**
 - Create a meeting summary for the June 2016 MSG meeting.

III. Presentations and Key Discussions

Kris Sarri, Principle Deputy Assistant Secretary, Policy Management and Budget at the U.S. Department of the Interior (DOI) and Designated Federal Officer (DFO) for the

USEITI MSG, opened the meeting and welcomed participants. All individuals in attendance introduced themselves. A full attendance list can be found in Section VI – Meeting Participants, page 28.

A. Opening Remarks

Ms. Sarri provided opening remarks by stating that USEITI will be working towards launching the 2016 USEITI Report. She recognized the hard work of the subcommittees and work groups between MSG meetings and the importance of open dialogue and discussion between the sectors.

B. USEITI MSG Business

The MSG conducted the following items of business during the course of the MSG meeting.

1. Terminology and USEITI December 2015 Meeting Summary

Judy Wilson, USEITI Secretariat, reminded meeting participants that the MSG has agreed to employ three terms to differentiate between different types of actions that the MSG takes:

- “Decisions” will indicate significant actions and agreements by the MSG key to meeting EITI international standards.
- “Approvals” will indicate lower-level decisions by the MSG, such as approving work plans, meeting summaries, process changes or additions, etc.
- “Confirmations” will confirm decisions that the MSG has previously made.

The MSG approved the meeting summary of the March 2016 MSG Meeting. A copy of the final, approved meeting summary is available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/useiti_msg_mar_2016_mtg_summary_v5_160426.pdf.

- **Approval: The MSG approved the meeting summary from the March 2016 USEITI MSG meeting.**

2. MSG Terms of Reference

Judy Wilson noted that she had provided an overview of updated Terms of Reference (TOR) at the March 2016 MSG meeting and that a final draft version of the TOR was posted to the USEITI website two weeks before the June MSG meeting.

Danielle Brian, Project on Government Oversight and CSO sector co-chair, suggested that some language be included in the TOR articulating the prerogative of each sector to put forward members for inclusion on the MSG, i.e., the principle of self-selection of sector representatives without interference. With the inclusion of language to this effect, the MSG approved the updated Terms of Reference. The final, approved version of the TOR is available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/msg_updated_useiti_terms_of_reference_06282016.pdf

- **Approval: The MSG approved the updated Terms of Reference.**

3. Update on USEITI Website User Analytics

Judy Wilson gave a brief presentation to the MSG about the nature of user visits to the USEITI Report website (available online at: <https://useiti.doi.gov/>). Ms. Wilson described the trends in user visits, the length of time that visitors spent on the website, and the breakdown between new and repeat users. More information is available in Ms. Wilson's presentation slides, available online at: https://www.doi.gov/sites/doi.gov/files/uploads/google_analytics_2016.pdf.

In response to Ms. Wilson's comments, MSG members asked the following questions; responses from Ms. Wilson are provided in italics:

- Is 4,000 users during the first half of 2016 a lot of users? How does this compare to other popular government websites? *Ms. Wilson: The most visited government websites tend to be service-oriented websites that users visit to access a specific service that the government provides to people. So it does not make much sense to compare the usage of an informational website like the USEITI site to service websites.*
- Would it be possible to find usage information about non-service government websites so that we can make an appropriate comparison? *Ms. Wilson: Yes, the Secretariat will find that information.*

4. 2015 Annual Activity Report

Chris Mentasti, USEITI Secretariat, introduced the 2015 USEITI Annual Activity Report as a product created by the USEITI facilitator, the Consensus Building Institute. Tushar Kansal, Consensus Building Institute, added that the Annual Activity Report summarized activities undertaken by USEITI during 2015 and also speaks to concepts included in the 2016 EITI Standard, such as mainstreaming.

- **Approval: The MSG approved the 2015 USEITI Annual Activity Report for submission to the International EITI Secretariat.**

5. Subcommittee and Work Group Organization

The Reporting and Reconciliation Work Group was renamed and reconstituted as the "Beneficial Ownership Work Group."

C. Independent Administrator's Updates

Members of the Independent Administrator (IA) team from Deloitte provided updates on their progress towards preparation of the 2016 USEITI Report. IA team members provided updates on components of the online component of the 2016 report, the executive summary, and the reporting and reconciliation process. These updates and accompanying MSG discussions are summarized below.

1. Updates to Online Report Revisions/Additions

Sarah Platts, Independent Administrator team member from Deloitte, presented an overview of the IA's project plan for creating the USEITI 2016 Report. She explained that, among other work to update online report contents for 2016, the IA team is creating the content for three new visualizations: 1) Abandoned Mine Lands (AML) Fund; 2) State & Tribal Additions; and Budget; and, 3) Audit, and Assurance Process. The IA is also updating information in the twelve county case studies from the 2015 report and updating contextual information about the coal excise tax. Ms. Platts clarified that, although the IA team creates the content for visualizations, 18F designs the visualizations that will appear in the online report. She also noted that the pdf/printed report for 2016 is intended to be an Executive Summary that will be significantly shorter than the 2015 pdf/printed report, as discussed at the completion of the lengthy 2015 report. Additional information is available in Ms. Platt's presentation slides, available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/20160717_ia_project_plan_v_send.pdf.

MSG members made the following comments and asked the following questions following Ms. Platts' presentation; *direct responses to questions and comments are indicated in italics, with the speaker indicated, as relevant:*

- What will the process be moving forward with decision-making and finalization of the content that the IA is creating? *Members of the IA team: The IA has already worked with the relevant work groups, subcommittees, and with the Online Advisory Work Group to vet the content that is being presented to the MSG at this meeting. Once the MSG approves these items, the IA will send the content that it has created to 18F, which will then turn the content into visualizations and other material that will be incorporated into the online report website. 18F will also continue to work with the Online Advisory Work Group to make sure that the final formatting and presentation that 18F is creating remains true to the MSG's intent. Last year, having a full-day session with the Co-Chairs to make final decisions on outstanding sector comments worked well and it could be productive to have a similar process this year. Additional information about the content and visualization development process is available online in the following slide:*
https://www.doi.gov/sites/doi.gov/files/uploads/20160628_18f_visualization_process.pdf.
- Is it correct that the USEITI contract with 18F only runs until September? *Director of ONRR: Yes, that is correct. However, ONRR will be bringing "in-house" the 18F process by hiring three Innovation Fellows to join the USEITI Secretariat team. This will give us more flexibility in the future about how to build out the report website without having the constraints of a contracted approach.*
- Which states and tribes are being included in the "State and Tribal Additions" visualization material? *Chair of the State and Tribal Opt-In Subcommittee: The*

visualization will be focused on those states and tribes that have expressed an interest in opting into USEITI.

- When I do a Google search for “USEITI,” the online report website does not come up within the first five search results. Could this be fixed? *Representative from the USEITI Secretariat: The online report website is being revamped such that it should better catch the Google crawlers and fix this issue.*
- The content that is being shown to the MSG at this meeting has not been previously reviewed by the sectors as a whole. Should another work group be tasked with working with the IA on new content? Will the sectors still be able to provide additional comments and edits before this material is finalized?
 - *Ms. Platts: Minor edits and suggestions are welcome.*
 - *Chair of the Implementation Subcommittee: Although the content has not been reviewed by all of the MSG members or the sectors as a whole prior to this meeting, the three additional visualization topics were approved by the MSG towards the end of 2015 and the IA has been vetting the content with MSG work groups and subcommittees.*
- There is a distinction between including Federal data, which has been reconciled, and state data, which USEITI will be including in its report without vetting or verification. This distinction should be clearly stated in the report.
- It is the MSG’s responsibility to approve all of the content that is included in the USEITI report but the industry sector has been very resource-constrained this year and has had little opportunity to review the new content. The industry sector has been very clear this year that the MSG should remain focused on its top priorities, which the MSG previously identified as income tax reporting, reconciliation, and state and tribal opt-in.
- Similarly to the industry sector, I am also resource constrained since I work without an organization supporting me. I provided extensive edits to the North Slope Borough case study and, while many of my edits were incorporated, I also provided context and background around governance in Alaska that was not included. Why was this material not included?
 - *Member of the IA team: The IA cannot automatically incorporate all of the edits provided by a representative of one sector. The IA must work with all three sectors to secure consensus around revisions.*
 - *The Chair of the State and Tribal Opt-in Subcommittee recognized that the context for Alaska is substantively different from other states (and county case studies) and suggested that the State and Tribal Opt-in Subcommittee consider how the North Slope Borough case study should be revised to reflect these circumstances.*

a) Abandoned Mine Lands (AML) Reclamation Program Addition

Luke Hawbaker, IA team member, presented an overview of the content that the IA created about the Abandoned Mine Land (AML) Reclamation Program. He explained that the IA organized the material into three sections: Abandoned Mine Land Overview, AML Revenue & Disbursements, and The AML Fund. Once the MSG approves the

content created by the IA, the IA will send the content to 18F for design and finalization of presentation. The content presented by Mr. Hawbaker is available online at: https://www.doi.gov/sites/doi.gov/files/uploads/useiti_aml_visualization_20160607_vs_end.pdf.

MSG members made the following comments and asked the following questions following Mr. Hawbaker's presentation; *direct responses to questions and comments are indicated in italics*:

- Veronika Kohler, National Mining Association and industry sector co-chair, thanked the IA for accommodating the industry sector's capacity gap between the departure of coal company representatives from the MSG and awaiting the seating of a new representative. She added that she has heard widespread praise of the AML material prepared by the IA.
 - Dan Dudis, Public Citizen, inquired whether the maps of coal mines would be interactive and would allow users to identify which mines have been reclaimed. *Mr. Hawbaker indicated that the maps would not be interactive in the 2016 Report but that this functionality could be considered for incorporation in future years.*
 - Paul Mussenden and Ms. Kohler inquired about the process for finalizing the presentation of content once the MSG approves it.
 - *Greg Gould, ONRR and government sector co-chair, responded that the Online Advisory Work Group would work closely with 18F and MSG members to make sure that 18F's final presentation of content aligns with the MSG's intentions.*
 - *John Mennel, IA team member, noted that 18F may make some revisions in formatting and verbiage based on its design work and user-testing process.*
 - *In response to suggestions from Ms. Kohler and Ms. Brian, Ms. Platts agreed to provide a process schema for tracking work products through the review and finalization process. John Cassidy, IA team member, requested that the MSG try to abide by the process laid out by the IA.*
 - The MSG approved the content created by the IA about the Abandoned Mine Land (AML) Reclamation Program.
- **Decision: The MSG decided to send the content created by the IA about the Abandoned Mine Land (AML) Reclamation Program to 18F.**

b) State and Tribal Addition

Mr. Hawbaker presented an overview of the content that the IA created about Montana, one of the states and tribes exploring USEITI opt-in. He explained that the process of creating the Montana content included collecting input from the State of Montana and from MSG members and working with the State and Tribal Opt-In Subcommittee to review and revise the content. The IA is putting forward the Montana content as a template for approval by the MSG; if the MSG approves the Montana

content, the IA will create similar content for other states and tribes. The Montana content is available online at:
https://www.doi.gov/sites/doi.gov/files/uploads/state_opt-in_visualization_montana_6_10_2016_vmsg.pdf with enlarged mock-ups of components of the Montana content available online at:
https://www.doi.gov/sites/doi.gov/files/uploads/2016june10_montana_enlarged_mockups_vmsg.pdf.

Editor's Note: For purposes of continuity, MSG discussion that was conducted during the "State and Tribal Opt-in Subcommittee Update" session (see page 17) is included in this section of the meeting summary.

MSG members made the following comments and asked the following questions following Mr. Hawbaker's presentation; *direct responses to questions and comments are indicated in italics:*

- Johanna Nesseth, Chevron, noted that whereas the MSG took the approach of informing the counties that were profiled in the county case studies that narratives based on publicly available information would be included in the USEITI report, the process has been more interactive with the opting-in states and tribes. *Mr. Hawbaker explained that the IA is sending draft versions of write-ups to states for multiple rounds of review and comment. Tribes have an exclusive right of final approval and sign-off on their write-ups. Danielle Brian added that the tribes are accorded this higher level of editorial authority due to the Federal government's trust responsibility with them.*
- Michael Gardner, Rio Tinto, inquired about whom the IA is speaking with at the state level. *Sarah Platts explained that the State and Tribal Opt-in Subcommittee provides the IA with a state point of contact who then also provides contact information for other state officials. Ms. Brian added that the State and Tribal Opt-in Subcommittee and the IA are also working to consult with state-level representatives from the industry and CSO sectors in addition to state government representatives.*
- Ms. Nesseth also suggested that Federal and state data would need to be very clearly differentiated and that revenue information be presented before regulatory information.
 - *Mr. Hawbaker responded that it should be relatively easy for 18F to identify data sources.*
 - *Paul Mussenden noted that both Federal and state data are forms of public data and that state regulatory agencies are accorded the same weight as Federal agencies. Kris Sarri suggested that it may be helpful to readers to make it very easy to find information about data sources so that readers can themselves explore the data sources.*
 - *John Mennel stated that both Federal and state/tribal data should come from credible public sector resources and should be well-cited. He added that a difference between Federal and state/tribal data is that, while the*

MSG has decided what data should be included, the states and tribes are largely defining what data to include in the USEITI report through the opt-in process.

- John Harrington suggested that it could be helpful to provide the states and tribes opting into USEITI with a summary of the factors and criteria that the MSG considered when deciding which revenue streams to include at the Federal level. If states or tribes define a revenue stream as material, then the MSG should defer to their decision. Paul Bugala, George Washington University, expressed agreement.
- David Romig, Freeport-McMoRan Oil & Gas, added that, while the MSG should defer to states and tribes, the included revenue streams should relate to the extractive industries.
- Mike Matthews, State of Wyoming, suggested that, if a state or tribe wants to include revenue streams that are not included at the Federal level, that the jurisdiction in question be asked to provide the relevant data.
- Ms. Nessith suggested that the MSG create a mechanism to vet revenue streams such that, for example, the State and Tribal Opt-in Subcommittee consider the revenue streams proposed by states and tribes that maybe or are beyond the scope of the Federal report.
- Dan Dudis suggested that a materiality threshold could be established for including revenue streams and that resources that are not included at the Federal level, such as forestry and fisheries.
- Veronica Slajer, North Star Group, noted that the Red Dog Mine in Alaska would not meet the USEITI materiality threshold but is a very significant mine in Alaska. She suggested creating a template for state and tribal opt-in that is based on the standards defined by the MSG for Federal reporting but also providing a space in the template for states and tribes to propose inclusion of other extractive commodities and revenue streams that are significant for them.
 - *John Cassidy noted that the state and tribal sections may end up looking somewhat different in content and format. In 2015, the MSG sought a uniform format and presentation for the country write-ups.*
- Patrick Field, USEITI facilitator from the Consensus Building Institute, synthesized the discussion and suggested the following process: a template based on the Montana model will be distributed to states and tribes opting into USEITI that would provide them with guidance about revenue reporting for participation in USEITI while also allowing them the opportunity to suggest additional commodities and revenue streams that are locally significant. Those proposed additions that are relatively straightforward would be handled by the IA while those that are further outside Federal scope would be considered by the State and Tribal Opt-in Subcommittee. In addition, the Co-Chairs will circulate drafts of content from the states and tribes that are opting into USEITI to MSG members via email for prompt review and comment.

- David Romig suggested that the acronyms for government agencies used in the report be hyperlinked to the names of the agencies. Lynda Farrell, Pipeline Safety Coalition, inquired about how decisions about hyperlinking are made. *Mr. Hawbaker explained that hyperlinks are generally used the first time that a term is used but that 18F would make final decisions about hyperlinking through design and usability testing.*
 - Keith Romig, United Steelworkers, suggested that the content more clearly differentiate between extractive commodities and primary products.
 - Dan Dudis noted that revenue information seems to be presented more prominently than cost information, in some cases.
 - Mike Matthews noted that many of the larger mine sites are pretty self-contained in terms of equipment and resources and therefore impose minimal costs on the local government. There are also some cases, such as Gillette, Wyoming, where the local mine is significantly supporting the town. This can make it difficult to determine what “fiscal costs” should be included.
 - *Ms. Brian agreed and noted that the IA is only including those costs that states and tribes have themselves directly attributed to extractive industry activity.*
 - Veronika Kohler suggested that, if cost information is going to be included, that contributions from industry be included next to the costs.
 - Ms. Brian added that she would be in favor of that as long as revenue and cost information are presented side-by-side.
 - Mr. Dudis expressed discomfort with presenting revenue and cost information side-by-side because cost information is often under-documented.
 - *Mr. Mennel explained that the IA is using the same criteria for including revenue and cost information that the MSG agreed on for the 2015 report: that the data source be a credible government data source and that the revenue or cost be directly attributed to extractive industry activity by a government entity. He added that, if any sector has concerns about a specific item, it can flag that item for the IA, and if a sector would like to see content presented differently, the IA can communicate that to 18F.*
 - Mr. Dudis inquired whether Montana is particularly rich in available data about the extractive industries. *Ms. Platts responded that Montana, Wyoming, and Alaska are all notably rich in available data among the states, which may be why they are the first three states to be opting into USEITI.*
- **Decision: The MSG decided to approve the Montana template for state and tribal reporting. The template based on the Montana model will be distributed to states and tribes opting into USEITI that would provide them with guidance about revenue reporting for participation in USEITI while also allowing them the opportunity to suggest additional commodities and revenue streams that are locally significant. Those proposed additions that are relatively**

straightforward would be handled by the IA while those that are further outside Federal scope would be considered by the State and Tribal Opt-in Subcommittee. In addition, the Co-Chairs will circulate drafts of content from the states and tribes that are opting into USEITI to MSG members via email for prompt review and comment.

c) Budget, Audit, and Assurance Process Addition

Andrew Varnum, IA team member, presented an overview of the content that the IA created about US budget, audit, and assurance processes. Once the MSG approves the content created by the IA, the IA will send the content to 18F for design and finalization of presentation. The content presented by Mr. Varnum is available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/budget_and_audit_visualization_160610_junemsg.pdf.

MSG members made the following comments and asked the following questions following Mr. Varnum's presentation; *direct responses to questions and comments are indicated in italics*. A number of commenters identified gaps in the information presented:

- John Harrington, ExxonMobil, noted that the large number of linkages to other data and information sources makes it hard to understand exactly what information will be presented but that he could identify some gaps at present, such as that IRS auditors are continuously present onsite at companies, not just when audits are taking place.
- Aaron Padilla, American Petroleum Institute, suggested that more information could be included about non-tax revenues and that steps 2 and 3 presently have some redundancy that could be eliminated.
- Mike Matthews noted that companies are audited at the state level in addition to being audited by the Federal IRS.
- Danielle Brian identified a few linguistic concerns, such as the use of "such as" before "accounting principles" in the Data Validation introduction.

Given the need for further review and revision of portions of the Budget, Audit, and Assurance Process Addition, the MSG agreed to send the content created by the IA to 18F to begin creating the visualization while the IA works with the Online Advisory Work Group and the following subject matter experts to further revise any content that needs further work: Paul Bugala (George Washington University), Aaron Padilla (American Petroleum Institute), Phil Denning (Shell Oil Company), and Curtis Carlson (US Department of the Treasury).

- Sam Bartlett, International EITI Secretariat, commended USEITI on the high quality and clarity of the content created about US budget, audit, and assurance processes.

➤ **Decision: The MSG decided to send the US budget, audit, and assurance processes content created by the IA to 18F while the IA works with the Online**

Advisory Work Group and MSG subject matter experts to further revise any content that needs further work.

d) Twelve County Case Studies

Sarah Platts explained that the IA is updating the twelve county case studies included in the 2015 USEITI Report and is adding some minor content in some cases. Drafts of the case studies are available online at: <https://www.doi.gov/eiti/june-27-28-2016-meeting>.

MSG members made the following comments and asked the following questions following Ms. Platts' comments; *direct responses to questions and comments are indicated in italics*:

- Dan Dudis stated that the draft write-up for the State of Montana is at the scale and depth that he had been anticipating for the county write-ups in 2015. He inquired as to the possibility of trying to find additional data sources for the counties.
- Danielle Brian suggested that the sectors could search for additional data sources and provide them to the IA for consideration to be included in future years of USEITI reporting.
- In response to a question from Mr. Dudis about the possibility of including additional data in the county case studies for the 2016 USEITI Report, Ms. Brian and Greg Gould explained that expanding the county case studies is not included in the work plan for 2016. Mr. Gould added that the budget for contracts with the IA and 18F would need to be considered when deciding whether expanded county write-ups could be included in the 2017 work plan.
- Johanna Nesseth suggested that the State and Tribal Opt-in Subcommittee and the IA could ask state-level contacts about additional data sources.
- Veronika Kohler recommended that decisions about how to expand the report be based on input and requests received from the public.

e) Coal Excise Tax Contextual Information

A draft of the information prepared by the IA about the coal excise tax is available online at:
https://www.doi.gov/sites/doi.gov/files/uploads/coal_excise_msg_20160607_vf.pdf.

While suggesting that the MSG move forward with deciding that the coal excise tax contextual information be sent to 18F for inclusion in the 2016 USEITI Report, Veronika Kohler noted that coal mining company representatives have recently left the MSG due to cut backs in the coal industry and thereby requested that the representative from Peabody Energy that is awaiting confirmation to join the MSG be allowed to review the coal excise tax information and provide input.

Greg Gould agreed with Ms. Kohler's request and suggested that the industry sector put forward the Peabody Energy representative as a "technical expert" now so that he can provide input even before being confirmed to join the MSG.

- **Decision: The MSG decided to send the coal excise tax contextual information to 18F for inclusion in the 2016 USEITI Report, with additional review and comment to be provided by industry sector coal industry representatives, as needed.**

2. 2016 USEITI Report (PDF) Executive Summary

Sarah Platts presented the outline for the executive summary to the 2016 USEITI Report to the MSG. She explained that the intention for the executive summary was to make it significantly shorter than the executive summary of the 2015 Report. Ms. Platts also mentioned that the 2015 Report would be archived online so that it would always be publicly available. The outline for the executive summary to the 2016 USEITI Report is available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/20160617_executive_summary_presentation_v_send_0.pdf.

MSG members made the following comments and asked the following questions following Ms. Platts' comments; *direct responses to questions and comments are indicated in italics*:

- John Harrington suggested that a description of USEITI be added to the executive summary outline.
- Keith Romig suggested that guidance about how to navigate the online report be added to the executive summary outline.
- In response to a question from Dan Dudis about whether infographics similar to those included in the 2015 executive summary would be included, Ms. Platts indicated that they would.
- Mr. Dudis inquired as to whether information comparing the 2015 and 2016 reports, such as the number of companies included and the types of quantities of revenues reported, would be provided anywhere. He noted that this is a standard element of reports that are issued annually.
- Mr. Harrington and David Romig questioned the utility of including such a comparison.
- Greg Gould agreed that it could be helpful to include year-to-year comparisons but explained that this is not included in the IA's 2016 scope of work. He suggested that the Secretariat would explore whether it could take this on internally and that, since the data and reports are provided online, readers can draw their own inferences comparing the 2015 and 2016 reports.
- Ms. Kohler suggested that the MSG discuss how the year-to-year comparison would be framed and reported so that, for example, the appropriate emphasis is placed on the level of company participation in reporting and reconciliation given that all revenue data is also provided through unilateral disclosure. Mr. Gould agreed that this would be important to discuss at a future MSG meeting.
 - *John Mennel expressed agreement about the importance of providing year-to-year comparison information and said that the IA would include*

this type of information. The framing and outline could be discussed by the Implementation Subcommittee.

- In response to a question from David Romig about disclosing the use of 2013 data for reconciliation in the 2015 Report and 2015 data in the 2016 Report (and thereby skipping 2014 data), Mr. Gould agreed that it would be important to clearly state that information in the 2016 Report as well as to provide the 2014 revenue data through unilateral disclosure.
- **Decision: The MSG decided to approve the Executive Summary outline for the 2016 Report with revisions suggested by MSG members: inclusion of background on USEITI, guidance about how to navigate the online report, and year-to-year comparative information.**

3. Update on Company Reporting and Reconciliation Process

Alex Klepacz and Kent Schultz, IA team members from Deloitte, provided an update on the company revenue reporting and reconciliation process. They reported on the materials that the IA has distributed to companies, the IA's communication process with companies, and the current status of company participation in reporting and reconciliation. Additional information is available in Mr. Klepacz's and Mr. Schultz's slides, available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/20160617_rr_msg_v_send.pdf.

In response to Mr. Klepacz's and Mr. Schultz's comments, Danielle Brian inquired as to whether it could be helpful to encourage additional companies to participate in reporting and reconciliation if MSG members were to supplement the IA's outreach efforts. Mr. Klepacz responded by explaining that the five companies that have informed the IA that they will not participate in reporting provided somewhat generic reasons for not doing so, such as having time and resource constraints. As such, it may not make much difference if MSG members were to do additional outreach.

D. Communications Subcommittee Update

Veronika Kohler, Chair of the Communications Subcommittee, provided an update on the Subcommittee's activities. She reported that the Subcommittee is revising the USEITI communications plan to focus on outreach around the 2016 USEITI Report with a particular focus on social media to engage the general public. She also reported that 84 people participated in a recent webinar held for the general public and that the Subcommittee is reaching out to Congressional offices. In addition, the IA held two sets of webinars for reporting companies, in Houston and Denver, with one set focused on non-tax revenue reporting and the other focused on tax reporting. Ms. Kohler also reported that the Department of the Interior sent a letter to reporting companies signed by Kris Sarri, Principle Deputy Assistant Secretary, Policy Management and Budget. Ms. Sarri added that a letter from the Secretary of the Interior, Sally Jewel, would go out to reporting companies on the day of the MSG meeting, June 27.

Finally, Ms. Kohler also reported that two public outreach sessions are planned for Montana (one public in Helena and one near or on the Blackfeet Nation) and one for New Orleans, Louisiana. These locations were chosen jointly by the Communications and State and Tribal Opt-in Subcommittees because Montana has both the state and the Blackfeet Nation opting into USEITI and New Orleans was the only location in the earlier round of public outreach at which members of the public attended.

In response to Ms. Kohler's comments, members of the MSG asked the following questions and made the following comments; *responses are indicated in italics*:

- Was the public webinar recorded and, if so, is it accessible for MSG members to view? *Ms. Kohler: yes, the webinar was recorded and is available for viewing. DOI is also exploring how to turn it into a learning module for companies.*
- How receptive do companies seem this year to participating in income tax reporting? *Mr. Klepacz and Mr. Mennel: Although we are seeing more participation by company tax representatives in our outreach events, there was only one question asked across the four webinars. The IA will also be making a presentation at the American Petroleum Institute Tax Conference.*

E. State and Tribal Opt-in Subcommittee Update

Ms. Danielle Brian, Chair of the State and Tribal Opt-in Subcommittee, provided an update on the Subcommittee's work. She reported that three states and one tribe have opted in, with discussions about opt-in progressing with a second tribe. Once approved by the MSG, the IA and 18F will use the same template for state-level reporting that has been created for Montana for other states opting into USEITI. She added that the Alaska state government wants to explore including revenue streams, such as pipelines, that the USEITI MSG has defined as out-of-scope for Federal reporting. Additional information is available in the presentation slides available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/2016june23_state_and_tribal_msg_slides_v4_1.pdf.

Editor's Note: For purposes of continuity, MSG discussion that was conducted during this portion of the meeting is included in the "State and Tribal Addition" section of the meeting summary (see page 9).

F. Implementation Subcommittee Updates

Greg Gould, Chair of the Implementation Subcommittee, introduced the key topics of discussion for the MSG from the Implementation Subcommittee: a revision of the EITI Standard has raised "beneficial ownership" and "mainstreaming" on the agenda for USEITI consideration. Presentations made on these topics and accompanying MSG discussions are summarized below.

1. Update on 2016 EITI Standard Revisions

Judy Wilson provided an overview of key elements of the revised EITI Standard. Her comments focused on seven requirements of the EITI Standard, updated requirements

around disclosure of beneficial ownership, updated requirements around data quality and assurance and the possibility of “mainstreaming” EITI reporting, and updated procedures for validation of country reports. Additional information is available in Ms. Wilson’s presentation slides, available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/eiti_2016_standard.pdf.

2. Beneficial Ownership Roadmap

Members of the Reporting and Reconciliation Work Group of the Implementation Subcommittee presented information of their work group’s due diligence and discussions around the new EITI beneficial ownership requirement and the context for meeting the requirement in the United States. Work group members Paul Bugala (George Washington University), John Harrington (ExxonMobil), Jim Steward (US Department of the Interior), and Curtis Carlson (US Department of the Treasury) reviewed the following information and made the following points:

- The revised requirements around beneficial ownership disclosure are in the 2016 Standard;
- The considerations that would need to be taken into account would be explored in a required “roadmap” for disclosure, due this year, to address beneficial ownership by 2020;
- The beneficial ownership would very likely not apply to publicly held companies that are registered with the Securities and Exchange Commission (SEC). Instead, the requirement would apply to privately held companies that are registered under state laws.
- State laws do not compel disclosure by privately held companies of beneficial ownership.
- Federal laws governing extractive activity do not require disclosure of beneficial ownership.
- There are thousands of extractives companies operating on Federal lands, of which only about 10 percent are publicly traded. There are many other companies that operate on non-Federal lands.
- Various bills have been introduced in Congress to require the identification of beneficial owners over the past ten years. None of these bills would compel the public disclosure of beneficial ownership and none have been enacted into law.
- Compelling disclosure of beneficial ownership will likely be a very difficult undertaking in the United States given existing laws and regulations. The 2016 EITI Standard does allow countries to prioritize disclosure, for example by the largest companies first, with an intention to include all companies in disclosure by 2020.

Additional information is available in the presentation slides available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/beneficial_ownership_overview_presentation_drft_06_17_2016_v9.pdf.

Following the presentation, MSG members asked the following questions and made the following comments:

Rationale of beneficial ownership disclosure

- The MSG should consider how disclosure of beneficial ownership could be most useful in the US context.
- Disclosure of beneficial ownership can help to fight illegal activity, such as money laundering and fraud. Recent disclosures about shell companies incorporated in the US and about the Panama Papers indicate the importance of this.
- Shell companies and the Panama Papers disclosures likely have little relevance to the extractive industries because these types of companies are unlikely to be engaged in extractive industry activities.
- From a global perspective, the EITI requirements around beneficial ownership could be very beneficial. US companies need to consider how to comply with the Corrupt Foreign Practices Act. However, implementation of beneficial ownership disclosure in the US just seems very logistically challenging.
- There is both a domestic rationale and an international rationale for disclosure of beneficial ownership. The former is to prevent someone with a political connection to come into ownership of a mineral resource in less than competitive ways and then benefit financially from that ownership. US law has various mechanisms, such as protections against conflict of interest, to guard against companies and individuals from illicitly coming into ownership of mineral interests. The international rationale for beneficial ownership disclosure is to mitigate the risk of international money laundering and financing of terrorist activities and the like. Various laws are being proposed in the US to address these international threats. So, in terms of the rationale for beneficial ownership disclosure as part of USEITI, the domestic rationale is largely addressed by existing US laws and the latter seems to be outside of what USEITI can meaningfully contribute to.
- It would be more accurate to say that the US has anti-corruption laws but that corruption still can and does take place here despite those laws.
- From the perspective of the International EITI Secretariat, is there any aspect of the international rationale for disclosure of beneficial ownership that is part of the mandate of EITI? *Response from Sam Bartlett, International EITI Secretariat: Some countries have had some success in addressing these trans-border issues by asking questions of the companies operating in their country. Although this is somewhat tricky, there is some potential for individual countries to have an impact on these trans-boundary issues through EITI.*
- States and tribes may not have the same level of control and transparency to combat corruption as those that exist at the Federal level.
- There may be corruption occurring that we are currently unaware of. For example, BLM officials and employees may hold ownership stakes in mineral

resources or in extractives companies. *ONRR Response: There are regulations that prohibit BLM employees from having these sorts of ownership stakes.*

- Without disclosure of beneficial ownership, we do not know whether these regulations are being violated.
- The Federal legislation that has been proposed and was reviewed by the Reporting and Reconciliation Work Group presenters would make ownership information available to law enforcement authorities but would not make it publicly available.
- Unfortunately, those bills have been tabled for the past ten years and have not been enacted, and so prospects for that sort of legislation being enacted soon do not seem likely.

Companies to be included in beneficial ownership disclosure

- Instead of thinking about disclosure of beneficial ownership for tens of thousands of extractives companies in the US, the MSG may want to focus on a manageable subset, such as the companies included in USEITI reporting and reconciliation.
- The following criteria could be used to select a subset of companies included in beneficial ownership disclosure: companies operating on Federal lands, by revenue, by production, by number of leases.

Options that USEITI could consider around beneficial ownership disclosure:

- This could be an opportunity for USEITI to take an element of the EITI Standard and adapt it to be useful for US purposes. For example, USEITI could propose an approach to the International Board that would disclose beneficial ownership information to law enforcement officials to address corruption concerns but would not disclose beneficial ownership publicly.
- Particularly given that privately held companies are incorporated at the state level and that USEITI has neither the power to compel disclosure of beneficial ownership from these firms nor influence with state legislatures to change their laws, USEITI may need to explore adapted implementation around this issue.
- From the perspective of the International EITI Secretariat, would a description of the legal safeguards that the US has enacted to guard against conflict of interest and corruption satisfy the EITI beneficial ownership question? *Response from Mr. Bartlett: After conducting an assessment and creating a roadmap, the USEITI MSG can seek to make that case to the International Board. Each country is expected to present its assessment to the Board and make the case for what it can feasibly do to meet the beneficial ownership requirement.*

Other comments:

- Is there a prospect of the Department of the Interior promulgating new regulations around disclosure of beneficial ownership for companies operating on Federal lands?

- *Response from Greg Gould, Director of ONRR: The charge for USEITI this year is to develop a roadmap around achieving compliance with the beneficial ownership requirement by 2020. That roadmap could include the prospect of Federal rule-making. Generally, the roadmap requires USEITI to identify the potential hurdles to achieving compliance with the beneficial ownership requirement and possible strategies for surmounting those hurdles. The roadmap allows USEITI to help the International EITI Board understand USEITI's prospects for meeting this element of the Standard and, if needed, begin thinking about adapted implementation.*

Next steps around beneficial ownership disclosure:

- Greg Gould, Chair of the Implementation Subcommittee, proposed renaming the Reporting and Reconciliation Work Group as the "Beneficial Ownership Work Group." The MSG approved this renaming and reconstitution of the work group.
 - The newly-named Beneficial Ownership Work Group will meet with technical experts, as needed, and will provide a report and proposal of a draft roadmap for compliance with the EITI beneficial ownership disclosure requirement to the MSG at the November 2016 MSG meeting.
 - Given the timeframe and lack of budget allocated for engaging technical experts by work groups, the Beneficial Ownership Work Group will likely consult with voluntary experts from the US Department of the Treasury and civil society organizations.
- **Approval: The MSG approved the renaming and reconstitution of the Reporting and Reconciliation Work Group as the "Beneficial Ownership Work Group."**

3. Mainstreaming

John Harrington presented information about the Reporting and Reconciliation Work Group's due diligence and discussions around the new EITI option to pursue mainstreaming of reporting. He explained that an increasing number of legal mandates coming into place in the United States, European Union, and other jurisdictions replicate some of the EITI requirements. So, the revised EITI Standard introduces the option for countries to include the reporting of EITI-related information through regular government channels as opposed to a stand-alone EITI report. Mainstreaming could also mean that some core elements of EITI, such as reconciliation of reported revenue, would no longer be required.

Mr. Harrington reviewed the principles underpinning mainstreaming, the procedures for mainstreamed disclosures, and the uncertainties for USEITI around participating in mainstreaming. Mr. Harrington noted that the EITI Board Chair indicated that the Board is intending to initiate mainstreaming with countries that can more fully meet all of the requirements in the EITI Standard, meaning that the US likely would not be considered in the first batch. Additional information is available in Mr. Harrington's presentation

slides, available online at:

www.doi.gov/sites/doi.gov/files/uploads/mainstreaming_msg_mtg_slides_2.pdf.

Following the presentation, MSG members asked the following questions and made the following comments:

- What are the advantages and disadvantages of mainstreaming?
 - It would allow USEITI to avoid the cost of reconciliation and instead dedicate those resources to making the contextual narrative and overall reporting more robust. It could also provide an incentive for other countries to pursue strengthening their controls to a similar level as the US so that they can also forgo reconciliation.
 - *John Mennel, IA team member, added: Mainstreaming would also make the EITI process more sustainable in the sense that integrating reporting into normal government functioning is more likely to persist than a stand-alone EITI reporting process. Additionally, the US likely saw some benefits from the reconciliation process in 2015 in terms of cleaning up data, but the costs of reconciliation likely outweigh those benefits over time.*
 - *Sam Bartlett, International EITI Secretariat, also suggested that mainstreaming could have a public benefit in that it makes up-to-date information more readily and easily publicly accessible. For example, an internet search for royalty payments in their state should yield accurate data.*
- The concept of mainstreaming has been part of the thinking for USEITI from the beginning since EITI implementation was intended to spur greater transparency across the Department of the Interior. The inclusion of mainstreaming in the 2016 EITI Standard allows the US to formalize that greater transparency.
- The Office of Natural Resources Revenue (ONRR) already undertakes significant effort to verify data with payers. The EITI reconciliation process could be seen as duplicative of this ONRR verification process.
- What is the mainstreaming feasibility study intended to address? In addition to working with the US Independent Administrator to conduct a feasibility study, would USEITI be able to work with the International EITI Secretariat? *Response from Sam Bartlett: Although the International Secretariat cannot commit to too much, it is assisting some countries with pre-feasibility scoping. In the US, the International Secretariat would like to see disclosure of tax payments. The US will need to examine what disclosure already exists and what further needs to be done.*
- Given that Australia joined EITI only in May 2016, what is their approach to mainstreaming? *Response from Mr. Bartlett: Australia is still a candidate country but previously ran a pilot EITI program for a few years. That pilot exercise was to test the hypothesis that EITI reconciliation would be redundant with the robust auditing processes that Australia already has in place.*

- What would the difference be between performing a pre-feasibility exercise and conducting the full feasibility study? *Response from Mr. Bartlett: The full feasibility study would be much more extensive. The pre-feasibility exercise could likely focus on scoping and likely hurdles and be prepared by the next MSG meeting in November. Another consideration for USEITI is that, with adapted implementation approved for the first two reports, a mainstreaming feasibility study could choose to focus only on Federal revenues or it could include state and tribal revenues given the need to report these beginning with the third USEITI report.*

Greg Gould, the Chair of the Implementation Subcommittee and head of the USEITI Secretariat, proposed that that USEITI Secretariat work with the International EITI Secretariat and the IA to conduct a pre-feasibility exercise for mainstreaming of USEITI.

- **Approval: The MSG approved the undertaking of a mainstreaming pre-feasibility exercise.**

G. Dodd-Frank Act Section 1504 Update

Greg Gould provided a high-level summary of the just released final rule for Section 1504 of the Dodd-Frank Act that released by the US Securities and Exchange Commission (SEC) on June 27, 2016. Mr. Gould's general and initial summary covered reporting requirements, the definition of "project," the types of payments included, relationship to USEITI, and the effective date of the draft final rule. Additional information is available in Mr. Gould's presentation slides, available online at: https://www.doi.gov/sites/doi.gov/files/uploads/dodd_frank_sec_presentation.pdf.

In response to Mr. Gould's comments, MSG members made the following comments:

- The definition of "project" in the SEC rule appears to have been drafted to align closely with EU and Canadian regulations.
- Throughout the rule, the SEC references the EU and Canadian regulations, as well as EITI and USEITI, in an apparent effort to align with these other entities.
- It seems that USEITI would be working at cross-purposes of this emerging consensus if it were to define "project" distinctly from these precedents.

H. Validation Discussion

John Mennel, IA team member from Deloitte, presented information about the EITI validation process and its implications for USEITI. He reviewed the EITI International Board's validation process, the indicators that the Board considers, the countries that are currently compliant with EITI and those that are attempting validation in 2016 and 2017, case studies from the validation process of select countries, notable changes to the validation process that were implemented with the 2016 EITI Standard, and the outlook for validation of the USEITI reports. Additional information is available in Mr. Mennel's presentation slides, available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/20160620_validation_case_studies_v_send_updated_1.pdf.

In response to Mr. Mennel's presentation, MSG members made the following comments and asked the following questions:

- Does the USEITI adapted implementation dispensation have a strict time limit? Does the USEITI plan for sub-national voluntary opt-in to USEITI potentially fulfill the requirement for sub-national participation? *Response from Sam Bartlett: The USEITI year 2 report (in 2016) will cover only 2016 and will thereby be covered by the adapted implementation dispensation. After the two-year dispensation, however, USEITI will need to have sub-national participation or apply for additional relief of some sort.*
- The USEITI adapted implementation request may have had two phases, with the first phase for sub-national opt-in and the second phase for reporting and reconciliation of sub-national revenues. The adapted implementation dispensation may not have been strictly time-limited, so this would need confirmation.
- If it is true that countries are waiting several years for validation due to delays from EITI International, is it possible that USEITI could be well on the way to mainstreaming by the time a US report is considered for validation? *Response from Sam Bartlett: There are fifteen validation requests overdue and they have been given priority by the International Board. That backlog will be cleared quickly. The Board will also take stock of the EITI financial situation in October 2016 and will thereby determine how many validations to undertake in 2017.*
- If the USEITI MSG decides to pursue validation of its 2016 report, could the International EITI Board meet that request? *Response from Sam Bartlett: To the extent possible, the International Board will strive to meet requests for expedited validation.*
- In terms of the likelihood for USEITI validation, in the past countries have been validated without fully meeting all EITI requirements and the presentation from John Mennel indicated that the EITI Board considers a scorecard holistically. However, Sam Bartlett has also indicated that a country needs to be "satisfactory" on all requirements in order to be validated. In order for USEITI to achieve validation, is "satisfactory" progress on each requirement needed or can is "meaningful" progress on some requirements sufficient? What are the requirements for validation? *Response from Sam Bartlett: All requirements have to be met. The EITI Board will make a final decision about a country's scorecard. The 2016 EITI Standard is quite clear that countries are required to have "satisfactory" progress on all requirements to achieve validation.*
- Prior to the 2016 Standard, the Board had more discretion to consider countries' reports holistically and validate them even if they had not met all of the requirements. The likelihood for the US report to be validated under the 2016 Standard is lower than it was under the 2013 Standard. *Response from John*

Mennel: Although there were countries that achieved validation without full compliance with company and revenue stream reporting, the gap that the US had in 2015 in terms of income tax reporting was quite significant. And the 2016 Standard sets a higher bar for validation.

- The International EITI Board ultimately decides whether a country is “EITI compliant,” correct? How is “compliance” with the EITI Standard different from “validation?” *Response from Mr. Bartlett: There are three stages to determine compliance: review by the International EITI Secretariat, review by an independent validator appointed by the EITI Board, and a final determination by the EITI Board.*
- The MSG is trying to guess at the intentions of the Board’s Validation Committee. The USEITI MSG has not been able to reach consensus about the disaggregation level of reporting and this may be a reason to be cautious about pursuing validation.
- There seem to be the following possibilities for USEITI pursuing validation: 1) submit the 2016 USEITI report for expedited validation; 2) submit for validation under the normal process, in which case the most recent report at the time of validation will be reviewed; or 3) request delayed validation.
- One additional consideration is that the 2016 Report would be considered for validation under the 2013 Standard whereas the 2017 report and later reports would be considered under the 2016 Standard.
- The USEITI MSG will have a better sense of the Board’s timeframe for validation after getting more information about the progress of the EITI fundraising campaign.
- Another validation risk is that the Board may not accept the USEITI definition of materiality. For next year, USEITI should expand the definition of materiality beyond only DOI revenues.
 - USEITI submitted its candidacy application under a definition of materiality that includes only DOI revenues.
 - *Response from Sam Bartlett: The Board is not limited to considering only the definition that was included in a country’s candidacy application. Doing so would discount any discussion or decisions that a country’s MSG makes after submitting its initial application.*
 - There are a number of companies in the mining sector that are not currently included in USEITI reporting because their payments to DOI do not meet the materiality threshold but that are voluntarily reporting their income tax payments. The Implementation Subcommittee should explore including these companies next year in order to help address the income tax reporting issue.
- The MSG needs to make a decision about how to handle state and tribal opt-in and, consequently, whether to submit another application for adapted implementation.

- The State and Tribal Opt-in Subcommittee should prepare a second request for adapted implementation. This application should state that USEITI is unlikely to ever undertake revenue reconciliation of state and tribal revenues.
- Mainstreaming could obviate the need for reconciliation.
 - *Comment from Pat Field, facilitator: We will need to clarify whether mainstreaming applies to all aspects of reporting or only to some aspects.*
- Given that the SEC has now released a rule for Section 1504 of the Dodd-Frank Act and that the 2016 Standard creates a pathway for mainstreaming, the real hurdle for validation facing USEITI is the level of participation in corporate income tax reporting. USEITI clearly meets or exceeds every other aspect of the Standard. USEITI needs to test what arguments it can make such that it can be successful even without the tax reporting. Could the case be made that USEITI is on a glide path towards validation given the release of rules under Section 1504? If the MSG decides that the US report is unlikely to be validated, the MSG should then consider whether it makes sense to continue expending the resources to meet the Standard. Instead, USEITI could consider pursuing the spirit of the EITI without strictly striving for validation.
- The rulemaking under Section 1504 is not a given. The SEC previously released final draft rules and those rules were blocked by a lawsuit. Given the political dynamics around these issues, that could happen again. Furthermore, even if the rules are implemented, tax reporting would not come into effect until 2019, which is three years away. The MSG should be very cognizant of the message that it would be sending about American exceptionalism in that they would have to undertake reconciliation while the US chooses not to do so. Other countries have enacted laws mandating reporting from companies and what the US does around this will have an impact in other countries.
 - The MSG needs to choose between focusing on domestic priorities and foreign policy goals. It cannot accommodate both simultaneously.
 - Another important precedent to consider is the robust level of CSO participation in the US process and the very strong and proactive involvement, particularly around unilateral disclosure, from the government sector.
- I am dismayed about the comments that the USEITI report would not achieve validation. We have a report that all sectors should be very proud of, particularly given the factors on the ground. It could be helpful to have our other EITI International Board member, Ambassador Warlick, participate in and help inform these discussions. USEITI needs people at the Board level who understand the discussions that the MSG has had and who can advocate on behalf of USEITI with the Board. I would like to reiterate the request that Ambassador Warlick attend USEITI MSG meetings in order to understand the USEITI process.

- *Sam Bartlett has communicated very clearly that countries are required to meet all of the requirements in order to achieve validation. He also said he is impressed about the work that USEITI has done.*
- Reconciliation is still very important for the US process. There are safeguards in place in the US system, and yet the impetus for this work in the US was the revelation about corruption at the former Minerals Management Service (MMS). *Response from a representative from the State of Wyoming: After the MMS scandal, Wyoming audited its revenue-sharing program with MMS and did not find any revenue misallocation. While there were cultural and behavioral problems at MMS, it does not seem that there were problems with revenue allocation and distribution.*
- There is still a chance that the US could achieve validation if more companies participate in income tax reporting in 2016.
- More so that income tax reporting, for which regulations will be implemented at some point, state and tribal reporting and reconciliation will continue to be a challenge and hurdle for implementation because the MSG ultimately has no control over subnational participation.
- An additional validation risk facing USEITI is the low level of public participation in the US process. *DOI Response: The US put forward resources for public engagement but unfortunately was not able to achieve robust engagement.*
- Patrick Field, facilitator, summarized the following potential validation risks raised by MSG members:
 - Sub-national reporting and reconciliation
 - Project level reporting
 - Definition of materiality
 - Tax reporting and reconciliation
 - Number of companies that participated in reporting
 - Community engagement

Greg Gould, Chair of the Implementation Subcommittee, proposed that the USEITI Secretariat work with the International Secretariat and the IA to explore the prospects and risks for USEITI validation and provide a recommendation to the MSG at the November 2016 MSG meeting. Mia Steinle, Project on Government Oversight, and Emily Hague, American Petroleum Institute, would serve as liaisons between the Secretariat and their sectors. The Secretariat will also maintain open communication with MSG members throughout the process.

IV. Public Comments

No public comments were offered at the June 2016 MSG meeting.

V. Wrap Up / Closing

Mr. Patrick Field, facilitator from the Consensus Building Institute, reviewed the action items and the decisions coming out of the MSG meeting. Decisions will be recorded in an updated MSG Decision Matrix by the Secretariat.

Mr. Gould, Ms. Kohler, Ms. Brian, and Mr. Mussenden, in their roles as Co-Chairs and the acting DFO, made closing comments to the MSG, thanking the MSG, associated staff, the USEITI Secretariat, and the IA for their hard work. Mr. Mussenden, Acting DFO, adjourned the meeting at 4:00 pm.

VI. Meeting Participants

The following is a list of attendees from the June 27-28, 2016 USEITI MSG meeting.

Chaired by Kris Sarri, Designated Federal Officer, and Paul Mussenden, Acting Designated Federal Officer, for the USEITI Advisory Committee, US Department of the Interior.

A. Participating Committee Members

Civil Society

Danielle Brian, Project on Government Oversight, USEITI MSG Advisory Committee Co-Chair
Paul Bugala, George Washington University
Lynda Farrell, Pipeline Safety Coalition
Keith Romig, Jr., United Steelworkers
Michael Ross, Natural Resources Governance Institute
Veronica Slajer, North Star Group

Government

Curtis Carlson, Department of the Treasury
Greg Gould, Department of the Interior, USEITI MSG Advisory Committee Co-Chair
Mike Matthews, State of Wyoming - Department of Audit/Mineral Audit Division

Industry

Stella Alvarado, Anadarko Petroleum
Phillip Denning, Shell Oil Company
Michael Gardner, Rio Tinto
John Harrington, ExxonMobil
Veronika Kohler, National Mining Association, USEITI MSG Advisory Committee Co-Chair
Johanna Nesseth, Chevron

B. Committee Alternates in Attendance

Civil Society

David Chambers, Center for Science in Public Participation

Daniel Dudis, Public Citizen

Government

Jim Steward, Department of the Interior

Industry

Chris Chambers, Freeport-McMoRan Copper & Gold Inc.

Aaron Padilla, American Petroleum Institute

C. Members of the Independent Administrator Team in Attendance

John Cassidy, Deloitte

Luke Hawbaker, Deloitte

Alex Klepacz, Deloitte

John Mennel, Deloitte

Sarah Platts, Deloitte

Kurt Schultz, Deloitte

Jen Smith, Deloitte

Andrew Varnum, Deloitte

D. Government and Members of the Public in Attendance

Michael Blank, Peabody Energy

Troy Dopke, Department of Interior Office of Inspector General

Nicole Gibson, Department of State

Emily Hague, American Petroleum Institute

Jeannette Angel Mendoza, Office of Natural Resources Revenue

Mary McCullough, Chevron

Charles Norfleet, Bureau of Ocean Energy Management

Kathleen Richland, Department of Interior Office of Inspector General

Yvette Smith, Office of Natural Resources Revenue

Mia Steinle, Project on Government Oversight

Suzanne Swink, BP

Micah Watson, Department of State

Greg Weissman, Chevron

Lance Wenger, Department of the Interior Office of the Solicitor

E. Facilitation Team

Patrick Field, Consensus Building Institute

Tushar Kansal, Consensus Building Institute

F. DOI MSG Support Team

Nathan Brannenber, Office of Natural Resources Revenue

Jerry Gidner, Office of Natural Resources Revenue

Jennifer Goldblatt, Office of Natural Resources Revenue

Judith Wilson, Office of Natural Resources Revenue

VII. Documents Distributed

- MSG Meeting Agenda ([PDF](#))
- March 2016 MSG Meeting Summary ([PDF](#))
- 2015 Signed Annual Activity Report ([PDF](#))
- Updated USEITI Terms of Reference ([PDF](#))
- Coal Excise Tax Infographic ([PDF](#))
- AML Visualization ([PDF](#))
- Budget and Audit Visualization ([PDF](#))
- Montana State Opt-In Visualization ([PDF](#))
- Montana Enlarged Mock-Ups ([PDF](#))
- Data Portal Analytics ([PDF](#))
- 18f Development Process ([PDF](#))
- County Case Studies:
 - Boone, Logan, and Mingo Counties, West Virginia ([PDF](#))
 - Campbell County, Wyoming ([PDF](#))
 - Desoto Parish, Louisiana ([PDF](#))
 - Elko and Eureka Counties, Nevada ([PDF](#))
 - Humbolt and Lander Counties, Nevada ([PDF](#))
 - Marquette County, Michigan ([PDF](#))
 - Pima County, Arizona ([PDF](#))
 - St. Louis County, Minnesota ([PDF](#))
 - Tarrant and Johnson Counties, Texas ([PDF](#))
 - Greenlee County, Arizona ([PDF](#))
 - Kern County, California ([PDF](#))
 - North Slope Borough, Alaska ([PDF](#))
- Executive Summary Outline ([PDF](#))

**UNITED STATES EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE
MULTI-STAKEHOLDER GROUP ADVISORY COMMITTEE MEETING
MARCH 8-9, 2016**

SUMMARY OF PROCEEDINGS

**U.S. DEPARTMENT OF THE INTERIOR
PREPARED: MARCH 2016**

I. Introduction

The U.S. Department of the Interior (DOI), with Kris Sarri presiding as Designated Federal Official (DFO) and Paul Mussenden presiding as acting DFO, convened the seventeenth meeting of the U.S. Extractive Industries Transparency Initiative (USEITI) Multi-Stakeholder Group Advisory Committee (MSG) on March 8-9, 2016 in Washington, DC. The purpose of the meeting was to make decisions on various recommendations for the 2016 USEITI Report from the Implementation Subcommittee; begin consideration of the future inclusion of additional commodities, namely forestry and other minerals; consider outreach efforts to the public around the 2015 Report and to companies around the 2016 Report; discuss both state and tribal opt-in efforts and updating the contextual narrative portions of the 2016 report around states and tribes.

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II. Summary of Endorsements, Decisions, Approvals, and Action Items

A. Endorsements

- No endorsements were made by the MSG at the March 2016 MSG meeting.

B. Decisions

- The MSG adopted the Implementation Subcommittee's recommendation on project-level reporting. *(see page 8)*
- The MSG adopted the Implementation Subcommittee's recommendation on revenue streams. *(see page 10)*
- The MSG adopted the Implementation Subcommittee's recommendation on reporting template and guidelines. *(see page 11)*
- The MSG adopted the Implementation Subcommittee's recommendation on company materiality. *(see page 11)*
- The MSG adopted the Implementation Subcommittee's recommendation on sampling. *(see page 13)*
- The MSG adopted the Implementation Subcommittee's recommendation on margin of variance. *(see page 15)*
- The MSG adopted the Implementation Subcommittee's recommendation on holding webinars for companies' tax staff. *(see page 16)*
- The MSG adopted the Implementation Subcommittee's recommendation on industry peer discussions. *(see page 17)*
- The MSG adopted the Implementation Subcommittee's recommendation on opt-in to USEITI reporting for out-of-scope companies. *(see page 17)*

C. Approvals

- The MSG approved the December 2015 MSG meeting summary. *(see page 5)*

D. Confirmations

- No confirmations were made by the MSG at the March 2016 MSG meeting.

E. Action Items

➤ Co-Chairs:

- Review and distribute meeting summary from March 2016 MSG meeting to MSG members.
- Develop agenda for June 2016 MSG meeting.
- Provide guidance to the Subcommittees around consultation with external stakeholders. *(see page 28)*

➤ USEITI Secretariat:

- Explore means to enhance the transparency of the contracting process, including federal best practices around contracting. *(see page 7)*
- Request participation from highest-level DOI officials in outreach efforts to companies. *(see page 23)*
- Send out letters to companies that are tailored to the level of reporting and reconciliation that companies elected to participate in for 2015. *(see page 24)*

➤ Implementation Subcommittee:

- Consider the proposal for forming a work group focusing on defining materiality. *(see page 13)*

- Provide updates on progress and key themes raised in industry peer discussions during weekly conference calls. *(see page 17)*
- **Reconciliation and Reporting Work Group**
 - Explore how the EITI International Board’s recently announced “mainstreaming” policy could be applied in the US context. *(see page 8)*
- **Independent Administrator (Deloitte)**
 - Based on analysis conducted during 2016 reporting and reconciliation process, report to the MSG on how much time and money a sampling approach would save on the part of the IA, companies, and the government. *(see page 14)*
 - Provide ongoing updates to the MSG about the number of companies likely to participate in different aspects of reporting and reconciliation. *(see page 17)*
 - Draft a proposal detailing an outreach strategy to companies around voluntary opt-in for out-of-scope companies. *(see page 18)*
 - Coordinate with USEITI Secretariat around communication with companies. *(see page 24)*
 - Present additional information about the content and intended direction of the state and tribal and budget, audit, and assurance visualizations to MSG members and continue working with the Online Report Work Group on an ongoing basis to confirm the direction of the online report. *(see page 27)*
- **USEITI Process Facilitator (Consensus Building Institute)**
 - Create a meeting summary for the March 2016 MSG meeting.

III. Presentations and Key Discussions

Kris Sarri, Principle Deputy Assistant Secretary, Policy Management and Budget at the U.S. Department of the Interior (DOI) and Designated Federal Officer (DFO) for the USEITI MSG, opened the meeting and welcomed participants. All individuals in attendance introduced themselves. A full attendance list can be found in Section VI – Meeting Participants, page 32.

A. Opening Remarks

Ms. Sarri provided opening remarks by stating that USEITI will be working towards initiating validation and ultimately becoming an EITI compliant country in 2016. She recognized the hard work of the subcommittees and work groups between MSG meetings and the importance of coordination and collaboration across sectors, with the IA team, and among the other bureaus and offices within the Department of Interior and other agencies outside DOI.

B. USEITI MSG Business

The MSG conducted the following items of business during the course of the MSG meeting.

1. Terminology and USEITI December 2015 Meeting Summary

Judy Wilson, USEITI Secretariat, reminded meeting participants that the MSG has agreed to employ three terms to differentiate between different types of actions that the MSG takes:

- “Decisions” will indicate significant actions and agreements by the MSG key to meeting EITI international standards.
- “Approvals” will indicate lower-level decisions by the MSG, such as approving work plans, meeting summaries, process changes or additions, etc.
- “Confirmations” will confirm decisions that the MSG has previously made.

The MSG approved the meeting summary of the December 2015 MSG Meeting with one minor edit. A copy of the final, approved meeting summary is available at:

<https://www.doi.gov/sites/doi.gov/files/uploads/USEITI%20MSG%20-%20Dec%202015%20Mtg%20Summary%20vFINAL%20APPROVED%20%28160323%29.pdf>.

- **Approval: The MSG approved the meeting summary from the December 2015 USEITI MSG meeting.**

2. Update on EITI Global Conference, Lima Peru

Two members of the EITI International Secretariat, Jonas Moberg and Sam Bartlett, joined the USEITI MSG meeting via teleconference. They provided a summary of proceedings at the Lima conference, including updates to the EITI Standard.

Mr. Moberg characterized the conversations at the Lima conference as deep and insightful. He noted that the Dominican Republic and Germany are joining EITI and observed that many Latin American countries are moving towards participating in EITI. Mr. Moberg stated that there is a growing recognition that EITI reporting in some countries has become overly dissociated from the functioning of their governments and so there is now a movement towards “mainstreaming” EITI into government’s other functions. He also mentioned the tension between the civil society sector and EITI leadership that arose in the Lima meeting around self-selection of board members and expressed confidence that the dynamic would improve under the leadership of the new Chair of the EITI Board, Fredrik Reinfeldt. He suggested that EITI needs to be “light touch” and not create unnecessary bureaucracy while also becoming more robust.

Mr. Bartlett focused his comments on updates to the EITI Standard that were agreed-to at the Lima conference. Key updates include:

- Option to “mainstream” EITI reporting through existing government systems.
- Provisions on beneficial ownership such that each country will need to agree on a roadmap for disclosing beneficial ownership by January 1, 2017 such that such disclosure is in place by January 1, 2020.
- Changes to validation procedures that include more disaggregated assessments and that encourage and reward continuous improvement.

- Provisions to encourage countries to undertake recommendations articulated in their EITI reports.
- Strengthened data accessibility requirements.
- Refinements to address inconsistencies and ambiguities in the Standard.
- A new requirement that MSGs publish their per diem policies.
- Restructuring of the EITI Standard to better align with the extractive industry value chain.

In response to Mr. Moberg's and Mr. Bartlett's comments, MSG members asked the following questions and made the following comments; *responses from Mr. Moberg and Mr. Bartlett are indicated in italics*:

- A CSO sector member inquired about the role of the civil society organization (CSO) sector at the Lima meeting and about the tension between the CSO sector and EITI leadership.
 - Mr. Bartlett recounted that there were four key meetings in Lima, with the meeting of the outgoing EITI Board looking at a number of key governance issues. He noted that, with more civil society organizations participating in EITI, there was contention about how CSO organizations would be nominated for seats on the EITI Board. Subsequently, some CSO organizations declined to participate in the members meeting. Later, the meeting of the incoming EITI Board addressed and resolved the issues raised in the outgoing board meeting.
 - A CSO sector member added that the outgoing board chair, Claire Short, asserted that she could overrule the self-selection process of the CSO sector. The incoming board chair has a different approach than the outgoing chair and he acknowledged the process "foul" that had taken place. The commenter also noted that the US Government representative to the Board, Mary Warlick, was very supportive of the CSO position.
- CSO sector members inquired about the significance of the changes to the standard around a country making "meaningful progress" towards meeting the requirements articulated in the Standard.
 - Mr. Bartlett explained that the EITI Board will look at a given country's progress towards meeting the requirements of the EITI Standard and will make a judgment call about whether the country has made "satisfactory progress," "meaningful progress," or "limited progress" towards meeting the Standard's requirements. Achieving "compliance" with the EITI Standard will continue to require that a country meet all elements of the Standard. The new framework gives the board greater discretion to decide what consequences should be meted out to countries that are not in compliance. For example, for a country like Afghanistan that has been participating in EITI but that has very weak governance, the board can look at what steps the country is taking to move towards compliance.

- An industry sector member recounted that he attended the Lima conference as well and highlighted the final day of the conference that featured over 25 ministers attesting to the importance of EITI in their countries. He stated that, although the organization is having some growing pains, the underlying work remains robust and important.
- An industry sector member commended the work of the members of the USEITI Secretariat who set up the US booth and represented USEITI. She also noted that John Harrington has been appointed to the EITI International Board as an alternate member.
- A CSO sector member added that the US Co-Chairs met with their counterparts from Iraq who were very interested to learn that the platform for the USEITI online report is open source and can be used by other countries. She also noted that the Iraqi MSG has rules requiring minimum representation and leadership by women.
- Government sector members Greg thanked the USEITI Secretariat as well as Kris Sarri for engaging the USEITI team. They added that the USEITI online report is a strong example of how EITI can improve governance in implementing countries and that other countries are now looking at the US example.

3. MSG Terms of Reference

Ms. Wilson walked through a draft version of updated Terms of Reference (TOR) for the USEITI MSG. She remarked that the updated draft is intended to be more forward-looking than the existing TOR, which was drafted and agreed-upon at the inception of the MSG. Ms. Wilson requested that the sectors review the draft updated TOR and be prepared to comment and decide on whether to endorse the document at the June MSG meeting. The draft TOR is available at:

https://www.doi.gov/sites/doi.gov/files/uploads/Updated%20USEITI%20Terms%20of%20Reference%20compared%203_16%201.pdf.

A CSO sector member commented that the federal contracting process to select the Independent Administrator was opaque and did not allow for input or guidance from the MSG. He noted that this opacity is particularly incongruent for a transparency initiative. The commenter suggested that the USEITI Secretariat explore other federal contracting processes, such as one used by the US Department of Energy in the nuclear fuel sector, and other best practices around federal contracting that are more transparent. Greg Gould, DOI ONRR, agreed to continue exploring means to enhance the transparency of the contracting process, including the federal best practices that the commenter referenced. The USEITI facilitator noted that the last bullet under the section of the draft TORs titled “X. Communications between the IA and the MSG” is intended to help address the commenter’s expressed concerns, at least in part.

An industry sector member inquired as to the consequences of an MSG member violating the TOR. The USEITI facilitator noted that, informally, this can be addressed through conversations, while formal decision making as to the severity of the violation

and attendant consequences rests with the Designated Federal Official to recommend to the Secretary for action. This is covered in Section IX, subsection I of the draft TOR.

4. Subcommittee and Work Group Planning

Mr. Gould asked the Reconciliation and Reporting Work Group to explore how the EITI International Board's recently announced "mainstreaming" policy could be applied in the US context.

C. Implementation Subcommittee Recommendations

The USEITI MSG received and discussed presentations and recommendations from two work groups of the Implementation Subcommittee: the Reconciliation and Reporting Work Group and the Tax Work Group. Each of these sets of work group recommendations and accompanying MSG discussions and decisions are summarized below. *Please note that where deliberation is in service of a MSG decision, comments are attributed by individual names and affiliation.*

1. Reconciliation and Reporting Work Group Recommendations

Jim Steward, Department of the Interior, provided an overview of the six areas in which the Reconciliation and Reporting Work Group made recommendations to the Implementation Subcommittee – with the Implementation Subcommittee now making those same recommendations to the full USEITI MSG. These recommendations were intended to set the stage for validation of the USEITI 2016 Report at the end of the year. The work group made recommendations in the following six areas:

- Project-level reporting
- Revenue streams
- Reporting template and guidelines
- Company materiality
- Sampling
- Margin of variance

The slides with Mr. Steward's overview and with recommendations from the Reconciliation and Reporting Work Group are available at:

https://www.doi.gov/sites/doi.gov/files/uploads/2016Mar04_Reporting%20and%20Reconciliation%20Work%20Group_MSG.pdf.

a) Project-level Reporting

Paul Bugala, member of the Reconciliation and Reporting Work Group, summarized the work group's process and recommendation about project-level reporting for 2016. He explained that, given that extensive discussions about this topic had already been held in the Implementation Subcommittee, the work group concluded that the positions of the industry and CSO sectors are presently irreconcilable. As such, the work group reverted to a previous agreement and made the following recommendation to the Implementation Subcommittee – with the Implementation Subcommittee now making those same recommendations to the full USEITI MSG:

The recommendation of the Reporting and Reconciliation Workgroup is that the reconciled payment reporting of the 2016 USEITI should follow the first part of Section 5.2e of the EITI Standard that states: "It is required that EITI data is presented by individual company, government entity and revenue stream." We were unable to reach a consensus on a project-level reporting definition consistent with Section 5.2e in the necessary timeframe.

Please see pages 1-2 of the following document for the complete recommendation on project-level reporting from the work group:

<https://www.doi.gov/sites/doi.gov/files/uploads/Reporting%20and%20Reconciliation%20Workgroup%20Recommendations.pdf>.

In response to Mr. Bugala's comments, MSG members asked the following questions and made the following comments.

- Zorka Milin inquired whether the strong opposition to project-level reporting in the United States among many companies takes into account the fact that many of these companies that have operations in Europe will have to report at the project level in coming months under EU law.
 - John Harrington responded by explaining that, while there are differences of opinion among industry sector members, many companies are concerned about the prospect for competitive harm from revealing information at the project level and are also not convinced that this reporting will effectively further EITI's goals for greater transparency and fighting corruption in the United States. As such, the industry sector is in favor of waiting until the Securities and Exchange Commission (SEC) releases rules concerning project-level reporting under §1504 of the Dodd-Frank Act.
- Danielle Brian asked whether work group members anticipate that their recommended approach could risk validation of the USEITI 2016 Report.
 - Mr. Harrington suggested that the EITI Board is likely to be sympathetic to the fact that USEITI is trying to act consistently with SEC and EU rules and that, on this issue, SEC rules are in process and have not been put in place.
 - Mr. Bugala cautioned against assuming that the Board would be okay with the US approach because it is the Board's Validation Committee that ultimately makes the decision about validating the US report. He added that, even with this caution, he stands behind the work group's recommendation.
 - Mike LeVine, Oceana, suggested that, while this may be the right decision for the time-being, the MSG ultimately does not know what the implications for validation will be.
 - Greg Gould stated that the recommendation clarifies that company-level reporting can serve as a surrogate for project-level reporting until the SEC rule-making process is finalized. As such, the work group's recommendation should not present a validation risk.

- Ms. Milin responded that company-level reporting and project-level reporting are separate processes and are not substitutable.
- Michael Gardner, Rio Tinto, opined that USEITI risks erring if it defines project-level reporting itself based on the disparate rules that have been released from the EU and Canada instead of waiting for the SEC. He provided the example of Quebec adopting a different definition than the rest of Canada.
- Ms. Milin noted that her organization, Global Witness, has participated in discussions at the level of the EITI International Board about this issue and that the International Board has also agreed to disagree.
- In response to questions from Chris Chambers, Freeport-McMoRan Copper & Gold, and from Ms. Brian, Mr. Gould confirmed that the federal government's unilateral disclosure of revenue data would remain at the company level until the SEC rule is finalized, at which point it will move to project-level reporting to the extent allowable by US law.

➤ **Decision: The MSG adopts the Implementation Subcommittee's recommendation on project-level reporting.**

b) Revenue Streams

Jim Steward recounted that the work group discussed the revenue streams to include in the 2016 USEITI Report. The discussion covered the revenue streams currently included in the 2015 USEITI Report, revenue streams that were intentionally excluded from the 2015 USEITI Report, as well as potential new revenue streams (e.g. forestry revenue).

Based on this discussion, the work group and the Implementation Subcommittee recommended to the MSG that no change be made as to the revenue streams included in the 2016 Report. The Implementation Subcommittee's complete recommendation can be found on pages 3-4 of the following document:

<https://www.doi.gov/sites/doi.gov/files/uploads/Reporting%20and%20Reconciliation%20Workgroup%20Recommendations.pdf>.

Mr. Harrington added that, while BLM helium revenue would be excluded from the report as last year, a description of the government's helium policy will be included in the contextual narrative portion of the report, as it was in the 2015 report.

Keith Romig noted that, if additional commodities are included in the scope of USEITI over time, additional revenue streams pertaining to these commodities would need to be added.

➤ **Decision: The MSG adopts the Implementation Subcommittee's recommendation on revenue streams.**

c) Reporting Template and Guidelines

Mr. Steward explained that the work group discussed possible paths to streamline the burden associated with reporting and reconciling revenue streams, particularly the “ONRR Other Revenues” revenue stream. Mr. Harrington added that the work group ultimately could not determine whether any changes that it would recommend would lower the reporting and reconciling burden without reducing the quality of these activities. The work group hopes that the lessons that both the Independent Administrator and reporting companies learned from participating in reporting and reconciliation in 2015 will smooth the process for 2016.

The work group and the Implementation Subcommittee made the following recommendation to the MSG:

For the 2016 USEITI Report, no content changes will be made to reporting template and guidelines that were submitted in the 2015 USEITI Report.

Please see page 5 of the following document for the complete recommendation on project-level reporting from the work group and the Implementation Subcommittee: <https://www.doi.gov/sites/doi.gov/files/uploads/Reporting%20and%20Reconciliation%20Workgroup%20Recommendations.pdf>.

- **Decision: The MSG adopts the Implementation Subcommittee’s recommendation on reporting template and guidelines.**

d) Company Materiality

Mr. Steward recounted that the work group discussed the relevant year of data for reconciliation purposes, CY 2014 or CY 2015, and considered the advantages and disadvantages to both. The work group and Implementation Subcommittee recommended that USEITI use CY 2015 data in the 2016 report because it could increase company data availability and diminish the effect of company mergers, acquisitions, and divestures (e.g., which company is responsible for reporting the revenue for reconciliation). This would mean CY2014 data would not be required to be reported (but ONRR can unilaterally disclose this data for purposes of continuity and the on-line report).

In addition, following discussion, the work group and Implementation Subcommittee recommended that USEITI continue to use the same method of company determination, specifically by using only ONRR reported revenues, as was used for the 2015 report.

Finally, the group work group and Implementation Subcommittee decided maintaining the 2015 reporting and reconciliation threshold is an important step to achieve for the 2016 USEITI Report. An 80% threshold was used for the 2015 USEITI report; the workgroup decided that based on the company composition of 2015, the decisions of the MSG, and the outcomes of the 2015 report, that an 80% revenue threshold would

be appropriate for the 2016 USEITI report, given that in any year the actual dollar threshold in absolute dollars will vary based on market conditions and other factors.

Please see pages 6-8 of the following document for the complete recommendation on company materiality from the work group and the Implementation Subcommittee:
<https://www.doi.gov/sites/doi.gov/files/uploads/Reporting%20and%20Reconciliation%20Workgroup%20Recommendations.pdf>.

In response to Mr. Steward's comments, MSG members asked the following questions and made the following comments.

- Dan Dudis of Public Citizen questioned why company materiality should be defined using only ONRR revenues when there are companies, particularly in the hard rock mining sector, that do not pay significant revenues to ONRR but that do pay significant revenues to the US Internal Revenue Service (IRS) in corporate income taxes. He suggested that, even though corporate income taxes are confidential, proxy information, such as production volumes, could be used to determine which companies pay significant quantities in corporate income taxes to the IRS. Including these companies would provide a fuller picture of the extractives sector in the United States.
 - Ms. Milin responded that there does not exist a good proxy indicator for corporate income tax payments.
 - Mr. Dudis replied that there should be some statistical correlation between a company's level of revenues and the amount that it pays in taxes. If, in fact, there is not a strong correlation between these two variables, that itself is an interesting story for USEITI to share.
 - Ms. Brian supported Mr. Dudis' call for an exploration of avenues to include companies in USEITI reporting that make significant tax payments but are not considered material according to ONRR revenue collections.
 - Mr. Mussenden reminded the group that the MSG's focus for 2016 is on achieving validation of its report. He agreed that it may be worth exploring other avenues for including other companies but suggested that the MSG focus on making decisions that facilitate validation of the 2016 report.

Mr. LeVine and Ms. Brian inquired about the change in the composition of companies that would be included in the 2016 materiality threshold as compared to 2015. Per the IA, it was noted that seven companies dropped off from the 2015 to the expected 2016 report. Of those seven companies, five companies reconciled CY2013 revenues. Three (3) new companies will be added from 2015 to the 2016 report

- Mr. LeVine also inquired about the future implications work group's recommendation that USEITI stay at an 80% revenue threshold for 2016 as opposed to moving to the 90% threshold that had previously been envisaged.
 - Mr. Harrington explained that moving to the 90% threshold would draw in 74 companies, many of them smaller, and the work group has concerns that some of these additional companies may not participate in USEITI reporting.

The work group's recommendation only applies to the 2016 report and does not bear on future years.

- Ms. Kohler added that not all of the companies that were included in the materiality threshold in 2015 elected to participate in revenue reconciliation and that it may be harder to convince companies to participate in 2016 given the ongoing low price environment for commodities and given that some of the in-threshold companies have filed for bankruptcy protection.
- Mr. Gould noted that the July 2013 MSG meeting summary contains a statement indicating that the USEITI MSG would decide about the 2016 company materiality threshold based on the results of 2015 reporting.
- Mike Matthews, State of Wyoming, suggested that the MSG decide to focus on percentage thresholds (e.g. 80% or 90%) going forward, as opposed to dollar revenue levels (e.g. \$50 million) so as to better account for fluctuating commodity prices.
- Mr. LeVine expressed his support for the Implementation Subcommittee's proposal to keep the company materiality threshold at 80% for 2016 but noted that this is a change from the MSG's previous planning and suggested that the MSG include a statement clarifying its intention.
 - Aaron Padilla, American Petroleum Institute, cautioned against including a statement of this sort as a caution against confusing USEITI's standard for validation.
- Ms. Brian and Mr. LeVine posited the importance of having the MSG affirmatively confirm that the decision to stay at an 80% materiality threshold for 2016 based on the results of 2015 reporting and other circumstances is not reflected in the USEITI candidacy application. They also pressed for the formation of a work group to focus on defining materiality for 2017 in order to separate out and rationalize two separate considerations: the level of revenue payments that USEITI considers to be "material" and the number of companies that are included in reporting.
 - Ms. Kohler responded to the proposal to create a working group focused on materiality by expressing concern about the MSG taking on additional priorities, beyond focusing on validation, in 2016.
 - Mr. Gould suggested that the International Board's focus on "mainstreaming" may allow for some efficiencies in reporting that could allow for consideration of other issues, such as defining materiality.
 - Mr. Harrington suggested that the Implementation Subcommittee consider the proposal for forming a work group focusing on defining materiality.

➤ **Decision: The MSG adopts the Implementation Subcommittee's recommendation on company materiality.**

e) Sampling

Mr. Harrington opened by reviewing the discussion about the use of statistical sampling as a way to streamline the reconciliation process from the December 2015 MSG meeting. He recounted that sampling may provide an opportunity to reduce some

amount of effort from the reconciliation process without diminishing the reporting of data from in-scope companies. He also noted that the United States has very high accounting standards and that the 2015 USEITI Report reconciliation results yielded no unexplained discrepancies.

Based on its exploration of the issue, the work group and the Implementation Subcommittee recommended that sampling not be used as the basis for reconciliation in the 2016 report but that the Independent Administrator use 2016 data to explore the benefits and methodology of sampling that may be used in subsequent USEITI Reports and share those results with the working group and implementation subcommittee.

Please see page 9 of the following document for the complete recommendation on company materiality from the work group and the Implementation Subcommittee:
<https://www.doi.gov/sites/doi.gov/files/uploads/Reporting%20and%20Reconciliation%20Workgroup%20Recommendations.pdf>.

In response to Mr. Harrington's comments, MSG members asked the following questions and made the following comments.

- Mr. Gardner and Mr. Bugala requested that the Independent Administrator (IA) report back to the MSG on how much time and money a sampling approach would save on the part of the IA, companies, and the government.
- Mr. Gardner suggested that adopting a sampling-based approach could conserve USEITI resources around the reconciliation process and thereby free up resources to use in other areas of MSG interest, such as expanding scope to include additional commodities.
 - Ms. Milin suggested that the “mainstreaming” approach suggested by the International Board could be a more effective approach to conserving resources than trying to create a new, different sampling approach that may pose validation issues.
- Various MSG members raised questions about the implications of adopting a sampling-based approach for the prospects of achieving validation of USEITI reports.
 - Ms. Kohler suggested that adopting a sampling-based approach could actually enhance the prospects for USEITI being successfully validated since it would take the pressure off of needing to have all companies within the materiality threshold participate in reconciliation.
 - Mr. Bugala suggested that, with 69% of DOI revenue reconciled in the 2015 Report given the number of companies within the materiality threshold who participated in validation, hopefully USEITI can have 80% of revenues reconciled in 2016. The MSG has previously decided on the 80% threshold.
 - Mr. Matthews pointed out that sampling is a very widely-used and respected accounting and auditing approach that is widely used in the United States and Europe in the extractives industries and in other industries, including

when investigating suspected fraud. Sampling is not a “lesser” approach in any way.

- Mr. Harrington suggested that the IA should develop a detailed proposal for how sampling would work for the MSG’s consideration and that the MSG would then engage in a conversation with the International EITI Board about implementing sampling. Sampling would not be implemented unilaterally by USEITI.
- Ms. Kohler cautioned that the reporting and reconciliation process for 2016 will likely be smoother only for those companies that participated in USEITI in 2015, not for those companies that chose not to participate in reconciliation or those that newly-meet the materiality threshold. Several new companies are included in the 2016 report that were not included in the 2015 report. Furthermore, due to the industry’s financial downturn, some of those that opted to participate last year may not do so again in 2016.
 - John Mennel, Independent Administrator team member from Deloitte, stated that there three new companies that meet the materiality threshold in 2016 that did not do so in 2015. He also noted that Mongolia’s EITI has started using a sampling-based approach and that there are some EITI countries that are not reporting or reconciling 100% of company revenues and that are still achieving validation. He suggested that the MSG should discuss what approach would work for the US context.

➤ **Decision: The MSG adopts the Implementation Subcommittee’s recommendation on sampling.**

f) Margin of Variance

Mr. Steward explained that the work group’s discussions explored raising the margin of variance percentage or floor thresholds. Through evaluation of actual 2015 USEITI Report reporting and reconciliation data, however, the work group concluded that reconciliation volume is not very sensitive to changes in the margin of variance percentage or floor thresholds and that order of magnitude adjustments would need to be imposed to have a material effect. As a result, the work group and Implementation Subcommittee recommended that no changes be made to margin of variance percentage or floor thresholds for the 2016 USEITI Report.

➤ **Decision: The MSG adopts the Implementation Subcommittee’s recommendation on margin of variance percentage and floor thresholds.**

2. Tax Work Group Recommendations

Curtis Carlson, Department of the Treasury, provided an overview of the Tax Work Group’s discussions and recommendations to the Implementation Subcommittee – with the Implementation Subcommittee now making those same recommendations to the full USEITI MSG. These recommendations were intended to set the stage for validation

of the USEITI 2016 Report at the end of the year. The work group made recommendations in the following six areas:

- Webinars for companies' tax staff
- Industry peer discussions
- Opt in for companies not in scope

The slides with Mr. Carlson's overview and with recommendations from the Tax Work Group are available at:

https://www.doi.gov/sites/doi.gov/files/uploads/2016Mar04_Tax%20Work%20Group_MSG.pdf. In addition, a more detailed version of the Tax Work Group's discussion and

recommendations is available at:

<https://www.doi.gov/sites/doi.gov/files/uploads/Tax%20Work%20Group%20Recommendations.pdf>.

By way of background, Mr. Carlson also explained that per the current SEC timeline for finalizing its 1504 draft rule, calendar-year corporate income tax filers are expected to report for the first time on their 2017 taxes by the end of May 2018. Out of the 41 in-scope companies for USEITI reporting in 2016, 32 use a calendar year for filing, two use a June fiscal year, and seven have no filing information available.

In response to a question from a government sector member about the seven companies that do not have tax filing information available, Mr. Carlson explained that these companies are privately held.

a) Webinars for Companies' Tax Staff

Mr. Carlson recounted that the Tax Work Group is recommending that the Treasury Department and the Independent Administrator (IA) lead meeting/webinars with in-scope firm's tax staff (in Houston and Denver, spring 2016), similar to last year's meetings with firms' royalty payment accounting staff. The goal of these meetings is to ensure greater understanding, encourage companies' tax staff to participate in USEITI tax reporting/reconciliation, and reduce burden on IA and industry by answering as many questions as possible before reporting and reconciliation begins.

In response to Mr. Carlson's comments, MSG members asked the following questions and made the following comments:

- Ms. Milin requested that the invitation for the webinars be shared with MSG members who would like to listen in. In response, Mr. Mennel explained that the 2015 company webinars were only for reporting companies in order to allow for candid discussions.
- In response to a question from Mr. Mussenden about whether an industry sector representatives would be reaching out to companies to encourage them to participate in webinars, Mr. Mennel responded to say that the IA would be inviting companies to the webinars.

- Mr. Gardner inquired about the aspect of the Tax Work Group’s recommendation that the IA ask member MSG companies (or reporting companies) to explain their experience with tax reporting and/or reconciliation.
 - Mr. Mennel explained that the IA would reach out to the point of contact in companies that participated in tax reporting in 2015 to inquire if they would be willing to share about their experience with the other companies participating on the webinar.
 - Mr. Gardner suggested that placing phone calls to these individuals could be helpful.
- **Decision: The MSG adopts the Implementation Subcommittee’s recommendation on holding webinars for companies’ tax staff.**

b) Industry Peer Discussions

Mr. Carlson explained that the Implementation Subcommittee is recommending that efforts be made to continue discussions between industry members and within trade associations following the EITI Conference in Lima. Specifically, trade associations and companies will discuss the benefits of participating in USEITI with other in-scope companies, with a focus on participating in income tax reporting.

In response to Mr. Carlson’s comments, Ms. Milin requested that industry sector members participating in this peer-to-peer effort provide updates to other MSG members. Mr. Padilla agreed to provide these updates and Mr. Gould offered to add this as an agenda item to the weekly Implementation Subcommittee conference calls. Ms. Taylor suggested that the lessons from these peer discussions could help shape the IA’s and the MSG’s communications with companies. Mr. Mennel also offered to provide ongoing updates to the MSG about the number of companies likely to participate in different aspects of reporting and reconciliation.

- **Decision: The MSG adopts the Implementation Subcommittee’s recommendation on encouraging industry peer discussions.**

c) Opt-in for Companies Not in Scope

Mr. Carlson stated that there may be companies not in-scope for 2016 reporting that wish to report and/or reconcile federal corporate income taxes and DOI revenue as part of their corporate citizenship and transparency efforts. The Implementation Subcommittee is recommending that these companies be allowed to opt into tax (and DOI revenue) reporting and/or reconciliation. This would not be an alternative to reporting requirements now or in the future.

In response to questions from MSG members about how opt-in reporting for out-of-scope companies would work, Mr. Mennel explained that the IA would conduct outreach to companies in the extractives sector that are already publicly disclosing their non-tax and tax payments to the government and give them the option to participate in

USEITI reporting. This reporting could take the form of completing the same form as in-scope companies are asked to complete, providing their already-publicly disclosed information to the IA, or simply affirmatively confirming numbers that the IA has gleaned from publicly available documents. MSG members offered the following comments.

- Mr. Gould added that it is important to have some sort of active participation in reporting from the companies, even if it is simply confirming the accuracy of publicly available data that the IA provides to them, in order for it to count as “reporting” under the EITI Standard.
- Mr. Padilla and Ms. Milin additionally suggested that, while the Tax Work Group has in mind a relatively small number of companies, especially in the mining industry, that are already voluntarily disclosing corporate income tax payments, the voluntary opt-in option can be offered to any company that would like to participate. Mr. Mennel added that, if the MSG decides to accept the Implementation Subcommittee’s proposal around opt-in for out-of-scope companies, the IA can draft a proposal detailing an outreach strategy to companies.
- Mr. Gardner suggested that companies are more likely to participate if the opt-in process is easier and less prescriptive. For example, filling in the same reporting form as in-scope companies would be more onerous and may discourage companies from participating. Ms. Kohler reiterated that the proposal from the IA should focus on making the participation by companies as easy as possible.
- Mr. Gould suggested that the USEITI report could have a separate table featuring data from out-of-scope companies that chose to participate in reporting.
- Ms. Brian questioned whether there should be more of a methodology, such as the size of companies, in terms of which companies are invited to opt into reporting. In response, Mr. Carlson and Ms. Milin explained that, since this is a purely voluntary offer to allow companies to participate in USEITI reporting, the methodology is not as relevant. Companies that the IA approaches but that choose not to participate in this supplementary opt-in process would not be named in any way. Mr. Gould added that ONRR has a list of larger companies in the extractives sector that it could provide to the IA in order to see which of those companies have already publicly disclosed revenue payments to the government.
- Phillip Denning, Shell Oil Company, and Mr. Padilla cautioned that, despite the MSG’s and the IA’s various efforts, companies may not choose to participate in corporate income tax reporting. In response, Mr. Carlson and Ms. Milin clarified that the voluntary opt-in process for out-of-scope companies would have no bearing on validation since the participating companies are out of scope. Ms. Milin added that the expectation for corporate income tax reporting and reconciliation from in-scope companies is clearly stated in the EITI Standard.

➤ **Decision: The MSG adopts the Implementation Subcommittee’s recommendation on opt-in to USEITI reporting for out-of-scope companies.**

D. Potential Other Commodities

The USEITI MSG received presentations and discussed considerations around introducing additional commodities to the scope of USEITI. The classes of commodities discussed were forestry and various other commodities (including additional metals, representative industrial minerals, and hydropower). Presentations by Michael Bechdolt, US Bureau of Land Management (BLM) on forestry, and Keith Romig, on the inclusion of various other commodities, along with accompanying MSG discussions are summarized below.

1. Forestry

Michael Bechdolt, BLM, joined the MSG meeting and made a presentation about the BLM's forest and woodland public land management program. Mr. Bechdolt provided background information such as the location of BLM public lands, the nature of forest ownership in the United States, and the nature of the forest and woodlands that BLM manages. He proceeded to review the statutory laws governing BLM's management of forests and woodlands and provided an overview of the timber harvest from BLM-managed lands including its volume, the timber sale process, revenues generated, and the distribution of timber sale receipts. Mr. Bechdolt also explained BLM's "stewardship contracting" approach to managing its forestry lands and touched on the harvest of special forest products that BLM also manages. Mr. Bechdolt's presentation slides are available at:

<https://www.doi.gov/sites/doi.gov/files/uploads/BLM%20Forestry%20%20Presentation%20%20Updated.pdf>.

In response to Mr. Bechdolt's presentation, MSG members asked the following questions and made the following comments *with responses by Mr. Bechdolt indicated in italics*.

- A CSO sector member inquired about BLM's role in managing mineral rights on non-BLM lands. A government sector member explained that BLM manages mineral rights on various non-BLM lands, including US Forest Service lands and some tribal lands.
- In response to a question from a CSO sector member, *Mr. Bechdolt stated that BLM's and the Forest Service's timber sales processes are very similar, with both taking about six to seven years to complete, with the possibility of expediting in case of forest fire.*
- CSO sector members asked about the BLM's management of its land to accommodate multiple uses and to account for protected areas. *In response, Mr. Bechdolt explained that one of the first step's in BLM's planning process is to allocate land for various uses, including cultural sites and riparian reserves. In addition, lands designated for timber production still contain constraints such as leaving a buffer of trees adjacent to streams.*

- In response to a question from a CSO sector member, a government sector member indicated that ONRR does not collect revenues resulting from timber production on US Forest Service lands.
- In response to a question from a CSO sector member, *Mr. Bechdolt stated that the downturn in lumber production in the late 2000s was due to the 2008 economic recession and collapse of the US housing market. (see slide #15)*
- A CSO sector member confirmed with Mr. Bechdolt that the US Forest Service manages approximately 90% of forest land while BLM manages the remaining 10%.
- A CSO sector member observed that, in contrast to minerals, timber and forest lands need to be managed. Landowners, including the federal government, pay for that management and both BLM and the Forest Service have come up with a mechanism by which timber companies contribute to forest land management through stewardship contracting. *(see slide #22)*
 - In response to a question from a CSO sector member, *Mr. Bechdolt explained that forest lands require management because the government's fire suppression policy over the past 80 years has resulted in much denser forests that require management to protect against forest fires. In addition, BLM manages forests for the benefit of rural, local communities under the 1937 Oregon & California Act.*
 - In response to a question from a CSO sector member about the differing mandates for BLM management under the 1937 Oregon & California Act and on Forest Service lands, *Mr. Bechdolt clarified that BLM interprets its mandate under the Oregon & California Act to manage for multiple uses although the act does speak to the sustainable production of timber specifically.*
- In response to a question from a government sector member about the mechanics of stewardship contracting, *Mr. Bechdolt explained that BLM values a stand of timber at a given amount and sells the right to harvest that stand to a company. In addition, BLM pays that same company an amount under stewardship contracting for habitat or other improvements. The company then takes the timber that it harvests from the timber stand, conducts stewardship work, and sells the harvested timber for the market price on the open market.*
- In response to a question from a CSO sector member about safety net and Secure Rural School payments to counties covered by the 1937 Oregon & California Act, *Mr. Bechdolt explained that 50% of receipts from timber sales in those counties continue to go to the counties with the balance of federal payments to those counties comprised of contributions from the general fund. (see slides #18-19)*
- In response to a question from a CSO sector member about data accessibility, *Mr. Bechdolt indicated that BLM's public lands statistics webpages (see: http://www.blm.gov/public_land_statistics/) provide useful data to the public but may not have data at the county level. In addition, secure rural schools payments are posted by county (see: <http://www.blm.gov/or/rac/ctypaypayments.php>).*

- In response to a question from a CSO sector member about special forest products revenues, *Mr. Bechdolt clarified that the revenue amounts shown on slides #25-26 indicate BLM collections for permits, not the value of the products harvested.*
- In response to a question from a CSO sector member about service contracts for building roads, *Mr. Bechdolt stated that both BLM and the Forest Service do let contracts for road construction.*
- The USEITI facilitator inquired about the total value of receipts to the federal government from timber production, observing that the federal government collects approximately \$12 billion from minerals production. *Mr. Bechdolt indicated that total federal receipts from timber likely totaled less than \$1 billion.*

Mr. Gould thanked Mr. Bechdolt for his presentation and responses to MSG members' questions. He also indicated that the USEITI Secretariat would try to line up a presentation from a representative of the US Forest Service at a future MSG meeting.

2. Other Commodities

Keith Romig made a presentation about expanding the scope of USEITI. He made the case that the current scope is limited and to only a subset of commodities extracted in the United States and that the MSG should consider expanding its scope to include additional commodities in the future. Mr. Romig proposed a four-stage program to expand USEITI's scope:

1. Additional metal commodities
2. Inclusion of representative industrial minerals
3. Inclusion of forestry
4. Evaluation of whether or not to include hydropower

Mr. Romig closed his presentation by noting that the inclusion of additional metals would not necessarily change the functioning of USEITI. However, adding industrial minerals, forestry, and hydropower would require changes in the form of added representation on the MSG related to these commodities, additional resources, and possibly changes in government data collection. Mr. Romig's presentation slides are available at:

<https://www.doi.gov/sites/doi.gov/files/uploads/Expanding%20the%20Scope%20of%20USEITI.pdf>.

In response to Mr. Romig's presentation, MSG members asked the following questions and made the following comments:

- In response to a question from an industry sector member, Mr. Romig stated that there is significant production of industrial minerals on both federal lands and on other, non-federal, lands.
- In response to a question from a government sector member about whether these new commodities would be included in the revenue reporting and reconciliation process, Mr. Romig suggested that an enhanced scope for USEITI

in future years could be reflected both in the contextual narrative and in the reporting and reconciliation aspects of the report.

- A representative of the IA team reported that adding limited contextual information about the proposed additional commodities would be covered under the IA's existing contract but that work beyond this, such as creating additional county case studies focusing on these commodities, would be beyond the scope of the IA's contract.
- A CSO sector member suggested that, since some of the proposed commodities are extracted primarily in one or two states, inclusion of the commodities could be linked to those states opting into USEITI.
- A government sector member noted that, although USEITI is focused on achieving validation for 2016, the presented information about including additional commodities is very helpful to consider for future years.
- An industry sector member observed that there are at least two paths to including additional commodities: through states including them via the state opt-in process and as a result of the MSG deciding to expand the scope of USEITI. She added that, if the MSG decides to expand scope, additional representatives to the MSG pertaining to the added commodities should be given additional seats on the MSG, not supplant the seats allocated to existing commodities.

E. Communications Subcommittee Update

Members of the Communications Subcommittee provided updates on efforts to outreach to companies around the 2016 report as well as general outreach efforts around the 2015 report. These updates and accompanying MSG discussions are summarized below.

1. Outreach to Companies for 2016 Reporting

Isabelle Brantley, Independent Administrator team member from Deloitte, made a presentation about communicating with companies for the 2016 USEITI Report. She provided an overview and timeline of outreach activities including letters, webinars, emails, and conversations at the EITI Conference in Peru. She also provided additional detail about the planned webinars focused on non-tax revenue reporting and corporate income tax reporting. Ms. Brantley's presentation slides are available at: https://www.doi.gov/sites/doi.gov/files/uploads/2016Mar04_Communications%20Subcommittee_MSG.pdf.

In response to Ms. Brantley's comments, MSG members asked the following questions and made the following comments.

- A CSO sector member asked about the prospect of having more senior DOI officials, such as the Deputy Secretary of the Interior, involved in communications efforts with companies in order to more effectively encourage companies to participate in USEITI.

- Mr. Gould noted that Kris Sarri, as the Principle Deputy Assistant Secretary, Policy Management and Budget, is one of the most senior officials at DOI and will be signing the thank you letters to companies that participated in USEITI in 2015.
- Mr. Mussenden said that, although the USEITI Secretariat has previously made requests to secure participation from even more senior DOI officials, it would try again. He also suggested that outreach from senior officials at organizations in other sectors, such as the American Petroleum Institute, could also encourage company participation.
 - An industry sector member responded that, since the government initiated the implementation of USEITI, participation from senior government officials is critical so that companies perceive some benefit from their participation.
- A CSO sector member inquired whether DOI sent different “thank you for participating in USEITI in 2015” letters to companies based on whether they elected to participate in revenue reconciliation or income tax reporting.
 - An industry sector member responded that Communications Subcommittee opted to send the same letter to all participating companies on the theory that positive feedback would be more likely to elicit continued future participation.
 - An industry sector member added that it was very important that the thank you letters be sent to companies before they started receiving communication from the IA requesting participation for 2016. The Communications Subcommittee would be happy to work further in advance to develop the 2016 thank you letters and receive the MSG’s input on those.
- In response to a questions from an industry sector member inquiring as to how the IA would approach those companies that declined to participate in USEITI reporting in 2015, Ms. Brantley explained that the IA would approach them as if they are new to USEITI and would articulate why participating in 2016 is particularly important due to the validation process.
- An industry sector member noting that many companies needed longer than the allotted 90 days for reporting in 2015, asked how long companies would be given in 2016.
 - Ms. Brantley responded that companies would be given 90 days for reporting and 30 days for reconciliation. The IA hopes that the process will be easier in 2016 for the many companies that participated in 2015.
- An industry sector member requested that MSG members have an opportunity to review the letter that the IA is sending to companies to invite them to participate in the informational webinars and to participate in USEITI reporting.¹

¹ *Editor’s note:* The Independent Administrator provided a draft of the letter to MSG members at the end of the first day of the MSG meeting in order to provide MSG members a chance to

- In response to a question from a CSO sector member about the recipients of the IA's letter to companies, Ms. Brantley said that the letter would mostly go to the same points of contacts that the IA had in 2015, with some updates.
- A government sector member suggested that the USEITI Secretariat send out letters to companies that are tailored to the level of reporting and reconciliation that companies elected to participate in for 2015.
- An industry sector member noted that any letters to companies newly in scope for 2016 would likely need more background and explanation about USEITI.
- An industry sector member requested that the IA and the USEITI Secretariat coordinate their communications with companies.

2. Outreach Following Release of 2015 USEITI Report

Ms. Kohler reported that the Communications Subcommittee has been working on putting together outreach efforts around the 2015 USEITI Report including webinars to solicit feedback about the 2015 report and guidance for the 2016 report as well as outreach to Congress. The first webinar could be held in early April and, while it will be hosted in Washington DC, it will be available remotely online. It will likely be held after 2:00 pm (EDT) in order to facilitate participation from people in western time zones as well as the general public. Future webinars could also be tailored with issue- or location-specific information. Ms. Kohler also noted that USEITI has not received much public input or feedback from its existing public engagement channels.

Ms. Betsy Taylor, Virginia Tech University, as a member of the subcommittee, added that the intention is to record the webinar and post it online for public access. She also suggested that the webinar focus on asking participants what questions they would like to have answered by USEITI in order to more proactively engage participants.

A CSO sector member noted that Kern County, California has expressed interest in engaging with USEITI and that the State and Tribal Opt-in Subcommittee hopes to have more information about holding a subcommittee meeting in a target community at the next MSG meeting.

F. Independent Administrator's Updates

Members of the Independent Administrator team from Deloitte provided updates on plans around quarterly updates to the online report as well as the overall timeline for 2016. These updates and accompanying MSG discussions are summarized below.

1. Quarterly Updates to Online Report

Sarah Platts, Independent Administrator team member from Deloitte, presented an overview of the IA's project plan for creating the USEITI 2016 Report with a focus on the

review the letter and provide advisory comments. The IA took these comments and suggested edits under consideration and finalized the letter on the second day of the MSG meeting.

plan for updating the contextual narrative portion of the report. These updates will be quarterly and are proposed to include three new visualizations:

- Abandoned Mine Lands (AML) Fund & Coal Excise Tax Contextual Information
- Concept for State & Tribal Additions
- Budget, Audit, and Assurance Process Visualization

In addition, Ms. Platts explained that the IA will support the addition of state and tribal information in the 2016 report, including contextual narrative content and available data; will update data and revise content for the 12 County Case Studies; and will write and design a short Executive Summary pdf report, and provide 18F with remaining data and content updates for the Online Report. Additional information is available in Ms. Platt's presentation slides, available at:

https://www.doi.gov/sites/doi.gov/files/uploads/2016Mar03_Contextual%20NarrativeMSG.pdf.

a) MSG Discussion About Updates to Online Report

In response to Ms. Platts' presentation about the IA's plans for updating and developing new content for the contextual narrative in 2016, MSG members made the following comments and asked the following questions.

- The USEITI facilitator inquired about the MSG's process for review and sign-off on the 2016 report materials. In response, Mr. Gould said that the Online Report Work Group of the Implementation Subcommittee is primarily responsible for working with the IA. The Online Report Work Group can also elevate concerns to the Co-Chairs, as needed. The Co-Chairs can choose to bring issues to the full MSG, to a Subcommittee, or to select MSG members for review and discussion. The executive summary portion of the 2016 report will undergo review by the full MSG.
 - A CSO sector member articulated the importance of allowing for the full MSG to review the content that will be included in the online report because MSG members are involved in outreach and have information and insight from users of the USEITI website about what types of content are of interest to them.
- A CSO sector member requested that the MSG discuss what new content and visualizations the IA should include in 2016. She also inquired about the relationship between the visualizations for state and tribal opt-in that the IA is developing and the work of the State and Tribal Opt-In Subcommittee.
 - IA team members explained that the IA will create up to five case studies that will be synthesized with the visualization on state and tribal additions.
 - A CSO sector member expressed concern about whether the IA may be double-counting its work around state and tribal opt-in because the final product would be a visualization that incorporates the case studies. In response, Ms. Brantley acknowledged that there is some synthesis of effort.
- A CSO sector member questioned whether the IA is being pushed to unnecessarily rush its process of developing the visualizations and other content for the report due

to an MSG-imposed deadline of November 2016 for completing the report (whereas the 2016 USEITI Report is due to the International Secretariat in March 2017). MSG members clarified that, since EITI requires that countries produce a report each year, USEITI will need to submit its report during 2016.

- An industry sector member inquired as to how the IA decided on the three visualizations that it is proposing to create.
 - An IA team member explained that the IA presented a work plan for rolling out the three visualizations at the December MSG meeting and proposed that the IA would work with the Implementation Subcommittee to develop these. The IA discussed the visualizations with the Online Report Work Group in January. At this MSG meeting, the IA would like to have input from the MSG about the proposed topics for the visualizations (although the IA has already begun developing the Abandoned Mine Lands (AML) Fund visualizations) and, going forward, the IA will continue working with the work group and with the Implementation Subcommittee to guide the development of the visualizations.
 - *Abandoned Mine Lands (AML) Fund & Coal Excise Tax Contextual Information:*
 - Ms. Platts described the AML visualization as going into a lot more detail than was included in text form in the 2015 report. The coal excise tax is a separate visualization that would more briefly focus on what the excise tax is, the tax rates, and what is done with the revenues.
 - A CSO sector member suggested that, since the MSG discussed the AML issue extensively at the end of 2015, it may make sense for the IA to proceed with creating a visualization on that topic.
 - An industry sector member added that, while AML has been extensively discussed by the MSG, but that the inclusion of coal excise tax should be discussed by the MSG.
 - *Concept for State & Tribal Additions:*
 - Ms. Platts explained that the state and tribal additions component is intended to encompass many of the areas of the interest raised by CSO sector members, such as employment information. The section is not intended to duplicate the work of the State and Tribal Opt-In Subcommittee. The content of this section would be focused on synthesizing and presenting revenue data for states and tribes but would also include some explanation of the state and tribal opt-in process.
 - In response to a question from a CSO sector member, Ms. Platts stated that the section would likely initially focus on presenting information, including case studies, about states that are opting into USEITI but would also include more general data about other states.
 - *Budget, Audit, and Assurance Process Visualization:*

- Ms. Platts added that the IA is proposing a budget, audit, and assurance process visualization to help audiences both domestically and internationally understand the robust nature of these processes in the US.
 - Members of the industry and government sectors expressed support for including a visualization about the US budget, audit, and assurance processes in order to support USEITI's case for future mainstreaming of reporting.
 - CSO sector members countered that there are a number of important topics that could be included in the contextual narrative and the MSG should discuss how it would like to allocate limited resources since the IA is under contract to create only three visualizations in 2016.
- A CSO sector member requested that the IA provide more information about the content and datasets that would be used for the state and tribal and budget, audit, and assurance visualizations. She added that the Co-Chairs are proposing that the IA present the state and tribal additions material directly to the State and Tribal Opt-In Subcommittee.
 - An IA team member agreed to have the IA present additional information to MSG members but requested that the IA be given direction to proceed in coming weeks rather than waiting for the next MSG meeting, in June.
 - A government sector member suggested that the IA and 18F continue working with the Online Report Work Group on an ongoing basis to confirm the direction of the online report. The work group can consult with the Co-Chairs as needed.
 - An industry sector member added that the Co-Chairs can consult with experts from the MSG, as needed, on different elements of the report. She also noted that the Online Report Work Group should confirm the intended direction of the IA's work before the IA and 18F build out the online report in order to confirm that intended direction.
 - A CSO sector member also pushed for participation by MSG members in reviewing the content and design of the online report. This thread of the MSG's discussion is summarized in the next section.

b) MSG Discussion About Soliciting Non-MSG Input on Draft Materials

Building on the call for MSG members to participate in review of the online report, the MSG discussed the procedure by which MSG members could consult with informed stakeholders outside of the MSG and get feedback on draft versions of USEITI material.

- A government sector member differentiated between the Co-Chairs bringing in individual expert members of the MSG for consultation on specific topics and areas of the report that are under development, on one hand, and sending draft material to external stakeholders before it is finalized and made public, on the other hand. The Co-Chairs would do the former but MSG members would refrain from the latter.

- An industry sector member agreed with the previous commenter and noted that USEITI did not send out any material to external stakeholders for consultation during 2015. Doing so could raise expectations about what content will or should be included before materials are finalized by the MSG. She added that there are times when materials may not be accurate, as occurred with slides presented on the first day of the MSG meeting.
- A government sector member asked whether there should be any ability to solicit input from specific external stakeholders.
 - A CSO sector member noted that the CSO sector's constituency is much broader than that of the other two sectors. She requested agreement that the CSO sector would not be accused of violating the MSG's trust if it solicits input from specific individuals outside of USEITI.
- An industry sector member suggested that materials could be solicited as topical materials (e.g. "mining materials" or "oil and gas materials") rather than as "draft USEITI materials."
- An industry sector member expressed wariness about sharing any documents outside of the MSG.
- The USEITI facilitator noted that each sector works differently and that the CSO sector tends to be more diffuse than the government or industry sectors. He suggested that the MSG create guidelines for consultation with external stakeholders.
- A CSO sector member noted that 18F has requested help from the MSG on getting public feedback since very little public feedback has been received via the USEITI website. She added that 18F already shows draft material to outsiders.
 - Members of the government sector and the IA team clarified that 18F conducts both user research and usability testing. The latter is the only area in which 18F shows draft materials to members of the public and, when doing so, the agency is only asking for input about the usability of the website, not about specific content.
- A CSO sector member proposed that an area such as abandoned mine lands (AML), around which the MSG has already had extensive discussions, could provide a test case for consultation with outside stakeholders. She proposed to share draft AML material with the six top experts on AML.
- The USEITI facilitator requested that the Co-Chairs discuss this issue further and provide guidance to the Subcommittees around consultation with external stakeholders.

2. Timeline for the Year

Mr. Mennel, Independent Administrator team member, reviewed the IA's project plan for creating the USEITI 2016 Report. He highlighted key process points and milestones that will need to be met in order to successfully release the USEITI report by December. Additional detail about the 2016 project plan is available at:

<https://www.doi.gov/sites/doi.gov/files/uploads/Updated%20IA%20Project%20Plan%20as%20of%20030416.pdf>.

An industry sector member noted that, with the deadline for USEITI to submit its report for validation being March 2017, USEITI could consider releasing its 2016 report in the first quarter of 2017. He explained that, although EITI countries are generally required to produce reports every year, USEITI had 24 months after joining to publish its first report and published that report in just one year and so could argue for some flexibility with regards to its second report. All of that said, the commenter suggested that USEITI nevertheless aim to complete the 2016 report by the end of the year and thereby give itself some time in early 2017 to strategize about communicating with the EITI International Board. A CSO sector member responded by noting that the MSG's ability to frame the report in January 2017 may be constrained by decisions that the MSG is making at present.

G. State and Tribal Opt-in Subcommittee Update

Members of the State and Tribal Opt-in Subcommittee provided updates on efforts to develop a methodology for inclusion of tribal information in the USEITI report as well as state opt-in to USEITI. These updates and accompanying MSG discussions are summarized below.

1. Tribal Opt-in and Inclusion of Tribal Data

Mia Steinle, Project on Government Oversight, presented a proposed methodology for selecting tribes to opt into USEITI. The methodology consists of the following four questions:

- Does the tribe overlap with an MSG-prioritized state?
- Is the tribe represented on the MSG or in STRAC?
- Does the tribe make extractive data publicly available?
- Has the tribe shown a willingness to be transparent?

Additional information about the Subcommittee's methodology, including the number of tribes that meet each of these four criteria, is available in Ms. Steinle's presentation slides:

<https://www.doi.gov/sites/doi.gov/files/uploads/State%20%26%20Tribal%20Subcommittee%20Presentation.pdf>.

Ms. Steinle also noted that the Subcommittee opted against including any Alaskan tribes in its analysis due to the complicated legal framework for these tribes, Alaska native corporations, and their involvement in the production of extractive commodities. She asked Veronica Slajer, North Star Group, to speak to this issue. Ms. Slajer explained that, for the most part, Alaskan tribes are not land-based tribes in the same way that most tribes in the contiguous 48 states are. The few land-based tribes that do exist are classified as Alaska Native Corporations and some of these, as well as some village corporations, are engaged in the extractive economy. There are three Alaska Native Corporations, in particular, that are actively involved with the extractive industries in

Alaska (one in oil and gas and two in mining) and the MSG will need to consider carefully how to describe the hybrid setup that exists in Alaska.

Jerry Gidner, Department of the Interior, added that the federally recognized tribes in Alaska do not have a land base and therefore do not receive revenues from the extractive industries. Instead, some of the Alaska Native Corporations are involved with the extractive industries and USEITI will need to decide how to classify these. Mr. LeVine added that, if USEITI expands to include forestry as an in-scope commodity, many more Alaska Native Corporations would be included. In addition, some of the Alaska Native Corporations work on non-native lands. Mr. Gidner noted that this latter consideration is not limited to Alaska; for example, the Southern Ute tribe in Colorado has an oil and gas development corporation that operates on non-native lands.

A government sector member suggested that the USEITI report with regard to tribes involved in the extractive industries be limited to naming the tribes, their number of members, and providing links to tribal websites. It would be up to the tribes themselves to decide whether to publicly share information regarding their revenue collections and payments. The commenter emphasized that the release of tribal revenue information can be very risky.

A CSO sector member suggested that USEITI will need to distinguish between tribal business entities and tribal government entities. Ms. Brian, subcommittee chair, concluded the discussion about tribes by noting that inclusion of tribal data would be limited to those data that are already publicly available and that the Subcommittee would need to indicate to the IA which tribes to focus on by April.

2. State Opt-in

Ms. Platts gave a presentation the MSG about state additions to USEITI. She began by reminding the MSG that the intention of state opt-in to USEITI is to focus on including state-level data in the contextual narrative portion of the report, not on reconciling state-level revenue data. She reported that the IA is working with the State & Tribal Opt-In Subcommittee to pilot the state opt-in process, including: integrating new participants, assessing currently available data, testing contextual narrative templates with stakeholders, and developing the state and tribal additions. Montana has chosen to opt-in to USEITI and is serving as the pilot for how to collect and organize the vast amounts of state data and will likely inform future opt-in efforts by states and tribes. Additional information about the opt-in process for Montana is available in Ms. Platts' presentation slides:

https://www.doi.gov/sites/doi.gov/files/uploads/2016Mar04_State%20Additions_MSG.pdf.

In response to Ms. Platts' presentation, MSG members asked the following questions and made the following comments.

- A government sector member inquired as to which Montana state agency is leading USEITI opt-in. A CSO sector member said that it is the Montana Department of Revenue and that the agency is recognizing that the types of information relevant for USEITI also implicates other agencies.
- A government sector member highlighted that each state has a different legal and revenue framework and so, while it is helpful for USEITI to have a template, it will not be possible to take a cookie-cutter approach to state opt-in. He also noted that the eighteen identified priority states are all hurting financially due to the fall in commodity prices and so USEITI will be more successful in soliciting state participation with easy asks that require minimal effort from the states. The focus should be on using public data.
 - A government sector member added that Wyoming is likely publishing all of the same data that Montana is publishing. He expressed agreement that each state would require a tailored approach and suggested that COPAS has information about the different fiscal regimes in each state.
 - A CSO sector member noted that the IA has been very careful not to ask Montana officials for too much of their time.
- An industry sector member reminded the MSG that progress on state and tribal opt-in has been notably slow and suggested that USEITI should proceed cautiously and deliberately with expanding and accept that the pace will be slow.
 - A CSO sector member expressed hope that, after the first couple of states opt into USEITI, progress for following states will be smoother. She also recognized the hard work from all three sectors on the opt-in effort.
- A CSO sector member suggested that state opt-in is relevant for “mainstreaming” efforts because it involves enhancing collaboration between agencies and sharing data in cost-efficient ways. She suggested that setting up forums for peer-to-peer learning could be useful to state opt-in. Another CSO sector member posited that universities may be able to set up those sorts of forums.

IV. Public Comments

No public comments were offered at the December 2015 MSG meeting.

V. Wrap Up / Closing

Mr. Patrick Field, facilitator from the Consensus Building Institute, reviewed the action items and the decisions coming out of the MSG meeting.

Mr. Gould, Ms. Kohler, Ms. Brian, and Mr. Mussenden, in their roles as Co-Chairs and the acting DFO, made closing comments to the MSG, thanking the MSG, associated staff, the USEITI Secretariat, and the IA for their hard work. Mr. Paul Mussenden, Acting DFO, adjourned the meeting at 4:00 pm.

VI. Meeting Participants

The following is a list of attendees from the March 8-9, 2016 USEITI MSG meeting.

Chaired by Kris Sarri, Designated Federal Officer, and Paul Mussenden, Acting Designated Federal Officer, for the USEITI Advisory Committee, US Department of the Interior.

A. Participating Committee Members

Civil Society

Danielle Brian, Project on Government Oversight, USEITI MSG Advisory Committee Co-Chair

Paul Bugala, George Washington University

Michael LeVine, Oceana

Keith Romig, Jr., United Steelworkers

Veronica Slajer, North Star Group

Betsy Taylor, Virginia Polytechnic Institute and State University

Government

Curtis Carlson, Department of the Treasury

Greg Gould, Department of the Interior, USEITI MSG Advisory Committee Co-Chair

Mike Matthews, State of Wyoming - Department of Audit/Mineral Audit Division

C. Michael Smith, Interstate Oil and Gas Compact Commission

Claire Ware, Eastern Shoshone & Northern Arapaho Tribes

Industry

Phillip Denning, Shell Oil Company

Michael Gardner, Rio Tinto

John Harrington, ExxonMobil

Susan Ginsberg, Independent Petroleum Association of America

Veronika Kohler, National Mining Association, USEITI MSG Advisory Committee Co-Chair

Johanna Nesselth Chevron

B. Committee Alternates in Attendance

Civil Society

Neil Brown, The Lugar Center

Daniel Dudis, Public Citizen

Zorka Milin, Global Witness

Government

Jim Steward, Department of the Interior

Industry

Stella Alvarado, Anadarko Petroleum

Chris Chambers, Freeport-McMoRan Copper & Gold Inc.

Nick Cotts, Newmont Mining
Aaron Padilla, American Petroleum Institute
Nicholas Welch, Noble Energy Inc.

C. Members of the Independent Administrator Team in Attendance

Isabelle Brantley, Deloitte
John Cassidy, Deloitte
Luke Hawbaker, Deloitte
Alex Klepacz, Deloitte
Sarah Platts, Deloitte
Kurt Schultz, Deloitte

D. Government and Members of the Public in Attendance

Michael Bechdolt, Bureau of Land Management
Nicole Gibson, Department of State
Jennifer Heindl, Office of the Solicitor
Marc Humpries, Congressional Research Service
Charles Norfleet, Bureau of Ocean Energy Management
Mia Steinle, Project on Government Oversight

E. Facilitation Team

Patrick Field, Consensus Building Institute
Tushar Kansal, Consensus Building Institute

F. DOI MSG Support Team

Nathan Brannenbergh, Office of Natural Resources Revenue
Jerry Gidner, Office of Natural Resources Revenue
Jennifer Goldblatt, Office of Natural Resources Revenue
Robert Kronebusch, Office of Natural Resources Revenue
Chris Mentasti, Office of Natural Resources Revenue
Kim Oliver, Office of Natural Resources Revenue
Judith Wilson, Office of Natural Resources Revenue

VII. Documents Distributed

- MSG Meeting Agenda ([PDF](#))
- December 2015 MSG Meeting Summary ([PDF](#))
- Report and Reconciliation Workgroup Recommendations ([PDF](#))
- Tax Workgroup Recommendations ([PDF](#))
- Draft State Additions Template ([PDF](#))
- USEITI Updated Fact Sheet ([PDF](#))
- Data Collection Cover Letter to Companies ([PDF](#))
- Reporting Template Guidelines ([PDF](#))
- Reporting Template ([PDF](#))

- IRS Form 8821 ([PDF](#))
- Updated MSG Member Contact List ([PDF](#))
- Decision Matrix ([PDF](#))
- Terms of Reference ([PDF](#))
- EITI Procedure for Mainstreaming ([PDF](#))
- Updated EITI Standard ([PDF](#))
- IA Project Plan ([PDF](#))
- BLM: A Sound Investment for America ([PDF](#))
- O&C Lands Act Overview ([PDF](#))

VIII. Certification

Interested parties are asked to contact USEITI at useiti@ios.doi.gov or 202-208-0272 with any questions, comments, or concerns regarding the content of this meeting summary.

**UNITED STATES EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE
MULTI-STAKEHOLDER GROUP ADVISORY COMMITTEE MEETING
NOVEMBER 16-17, 2016**

SUMMARY OF PROCEEDINGS

**U.S. DEPARTMENT OF THE INTERIOR
PREPARED: DECEMBER 2016**

I. Introduction

The U.S. Department of the Interior (DOI), with Paul Mussenden presiding as Acting Designated Federal Official (DFO), convened the nineteenth meeting of the U.S. Extractive Industries Transparency Initiative (USEITI) Multi-Stakeholder Group Advisory Committee (MSG) on November 16-17, 2016, in Washington, DC. The purpose of the meeting was to review and endorse the 2016 USEITI Report and Executive Summary; make decisions regarding the request for extending Adapted Implementation and the USEITI Beneficial Ownership Roadmap; approve the June 2016 MSG meeting summary, the USEITI MSG Endorsement of Open Data, and the 2017 USEITI Workplan; receive updates on the work of MSG subcommittees including the Implementation Subcommittee, Communications Subcommittee and the State and Tribal Opt-in Subcommittee; and discuss miscellaneous issues including Independent Administrator recommendations for 2017, lease-level unilateral disclosure, mainstreaming, and U.S. validation.

Please note that, throughout this meeting summary, comments made by presenters, Independent Administrator (IA) team members, other non-MSG members, and those directly pertaining to an MSG decision are attributed to specific speakers. Other comments are provided without attribution in order to foster open discussion among MSG members excepting final deliberations prior to specific MSG decisions.

Interested parties are asked to contact USEITI at useiti@ios.doi.gov or 202-208-0272 with any questions, comments, or concerns regarding the content of this meeting summary.

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II. Summary of Endorsements, Decisions, Approvals, Confirmations, and Action Items

A. Endorsements

- The MSG endorsed the 2016 USEITI Report, Executive Summary, and Appendix. *(see page 17)*

B. Decisions

- The MSG decided to submit the request for extending Adapted Implementation to the EITI International Board. The USEITI Secretariat shall transmit the document to the EITI International Board on or before January 1, 2017. *(see page 23)*
- The MSG decided to submit the USEITI Beneficial Ownership Roadmap to the EITI International Board. The USEITI Secretariat shall transmit the document to the EITI International Secretariat on or before January 1, 2017. *(see page 37)*

C. Approvals

- The MSG approved the June 2016 MSG meeting summary. *(see page 6)*
- The MSG approved the policy statement titled “USEITI MSG Endorsement of Open Data.” *(see page 17)*
- The MSG provisionally approved the 2017 USEITI Workplan, with final approval pending from the MSG Co-chairs. The USEITI Secretariat shall transmit the document to the EITI International Secretariat on or before January 1, 2017. *(see page 10)*

D. Confirmations

- No confirmations were made by the MSG at the November 2016 MSG meeting.

E. Action Items

➤ Co-Chairs:

- Review and distribute meeting summary from November 2016 MSG meeting to MSG members.
- Develop agenda for February 2017 MSG meeting.
- Invite auditors, ONRR staff, and company experts to explain and explore standard audit and assurance processes already in place by February 2017. *(see page 24)*

➤ Implementation Subcommittee

- Consider discussion of jobs data, multi-year metrics of progress, conversion to common energy units, and production data for some minerals like gold for 2017 report. *(see section beginning on page 12)*
- Discuss DOI audit procedures and their applicability to the reconciliation process at November 30, 2016 meeting, as well as timing and next steps; prepare presentation on these issues for February 1-2, 2017 MSG meeting. *(see page 24)*
- Review reporting of various streams of revenue, thresholds, and level of effort required for such reporting given past two year's experience by December 2016 or January 2017. *(see section beginning on page 27)*
- Consider including scope and margin of variance issues in the 2017 USEITI Report. *(see page 27)*
- Consider IA recommendations on improving efficiency of the reconciliation process. *(see page 28)*
- In preparation for the February 2017 MSG meeting, consider whether to add additional commodities by December 2016, consider and vet any new country case studies, and submit required materials to ONRR by January 2017. *(see sections beginning page 12 and page 28)*
- Begin implementing activities from the Beneficial Ownership Roadmap for 2017. *(see page 35)*
- Work on developing documentation to support USEITI validation, especially in more challenging areas. *(see page 42)*
- Implementation Subcommittee workgroups explore possible areas of agreement on which requirements could be classified as "green" versus "yellow." *(see page 42)*
- **Communications Subcommittee**
 - Prepare 2017 Communications Plan considering both 2016 outreach experiences and MSG input by February 2017. *(see section beginning on page 19)*
- **State and Tribal Opt-in Subcommittee**
 - Engage Colorado, North Dakota, and Pennsylvania as well as interested tribes. *(see page 21)*
 - Obtain final list of states and tribal opt-ins by April 2017, and advise ONRR on whether to exercise IA contract option. *(see page 28)*
- **Independent Administrator (Deloitte)**
 - Review whether DOI audit procedures would satisfy EITI reconciliation requirements, the relative cost-effectiveness of these audit procedures as compared to the current USEITI reconciliation process, and the timeline for implementing any revisions to the USEITI reconciliation process. *(see page 24)*
 - Consider whether careful review and description of DOI audit procedures might help demonstrate the potential for mainstreaming of USEITI reporting. *(see section beginning on page 24)*

- Prepare proposal for additional visualizations/topics for the 2017 Report to be decided by the MSG at the February 2017 meeting by December 2016 or January 2017. *(see section beginning on page 30)*
- Conduct mainstreaming feasibility assessment by February 2017. *(see page 37)*
- Explore whether there adjustments to scope and margin of variance could reduce the level of effort required of companies and the government. *(see page 27)*
- **General Services Administration (GSA) 18F**
 - Provide information to the MSG on where to find detailed implementation notes on the USEITI website. *(see section beginning on page 12)*
- **USEITI Secretariat**
 - Conduct initial desk audit regarding validation pre-assessment and discuss with the MSG. *(see section beginning on page 38)*
- **USEITI Process Facilitator (Consensus Building Institute)**
 - Distribute action items from the November 2016 MSG meeting.
 - Create a meeting summary for the November 2016 MSG meeting by December 2016.

III. Presentations and Key Discussions

Greg Gould, Co-Chair of the USEITI MSG Government Sector and Director of the Office of Natural Resources Revenue (ONRR) at DOI, opened the meeting and welcomed participants. All individuals in attendance introduced themselves. A full attendance list can be found in Section VI – Meeting Participants, page 43.

A. Welcome, Introductions, and Agenda Review

Paul Mussenden, Deputy Assistant Secretary, Natural Resources Revenue Management, DOI, provided opening remarks. He noted several key milestones that would occur in the meeting, including approving the second annual EITI Report. He also suggested that the upcoming political transition was likely on the minds of many MSG members, and that those in government were focused on making sure it will be smooth and orderly. He reminded MSG members that this would be the last USEITI MSG meeting of the current administration; for this reason Secretary of the Interior Sally Jewell and National Security Council Member Mary Beth Griffin would both be speaking to the group to thank members for their efforts.

Pat Field, facilitator from the Consensus Building Institute, then provided a broad overview of the agenda for the upcoming two days.

B. USEITI MSG Business

The MSG conducted the following items of business during the course of the MSG meeting.

1. Terminology and USEITI June 2016 Meeting Summary

Judy Wilson, USEITI Secretariat, reminded meeting participants that the MSG has agreed to employ three terms to differentiate between different types of actions that the MSG takes:

- “Decisions” will indicate significant actions and agreements by the MSG key to meeting EITI international standards.
- “Approvals” will indicate lower-level decisions by the MSG, such as approving work plans, meeting summaries, process changes or additions, etc.
- “Confirmations” will confirm decisions that the MSG has previously made.

The MSG approved the meeting summary of the June 2016 MSG Meeting. A copy of the final, approved meeting summary is available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/useiti_msg_-_june_2016_mtg_summary_v4_160913.pdf.

- **Approval: The MSG approved the meeting summary from the June 2016 USEITI MSG meeting.**

2. Update from EITI Board Meeting

Mary Warlick, Principal Deputy Assistant Secretary of State, Bureau of Energy Resources, U.S. Department of State and member of the EITI International Board Finance Committee, provided an update on the EITI Board meeting held in Kazakhstan in October 2016. She reported that it was a productive meeting that tackled a variety of issues, including internal governance, decision-making procedures, financial sustainability, and Candidate Status safeguard requirements.

Regarding internal governance issues, Ms. Warlick noted that the Governance and Oversight Committee, which she chairs, had been working to advance a series of reforms designed to help the organization function more effectively, including issues related to nominations for the next Chair of the EITI International Board, annual performance reviews for the Executive Director and Head of the Secretariat, and term limits for the Head of the Secretariat. The board conducted a performance review for the Head of the Secretariat in advance of the board meeting, and agreed to extend the term of the Head of the Secretariat for an additional two years until the end of 2018.

With respect to board decision-making procedures, Ms. Warlick noted that the board is a consensus-based organization but that there have been instances where members have not been comfortable with the nature of the consensus achieved. The Governance and Oversight Committee developed suggestions for providing greater clarity around how decisions are made. Most of the committee’s resolutions on the issue were approved. The Oversight Committee is now working to clarify language in the board manual and drafting amendments to the relevant articles.

With respect to financial sustainability, Ms. Warlick noted that identifying sustainable funding sources for the EITI Secretariat represents a key challenge. While supporting countries have dedicated substantial funds to supporting EITI efforts, much of this has been distributed through a World Bank trust and through bilateral aid programs. The U.S. has not put money into funding the Secretariat even as there is a feeling that the Secretariat is taking on an increasing amount of work, in particular related to validation. The Board discussed how to obtain agreement on a minimum or mandatory funding level. Companies agreed to provide a range of \$20,000-\$60,000 in support depending on the size of the company, but the country constituencies were more divided. The U.S. would not commit to mandatory country contributions absent an expenditure review mechanism being put in place, even though the U.S. wants to support the EITI Secretariat and recognizes that the Secretariat's work is important and impactful. The U.S. hopes to make annual contributions for one to two years going forward. The U.S. also expressed a desire for the Secretariat to seek additional funding from foundations.

The board meeting also included a number of discussions on candidate status safeguard requirements. In advance of the meeting, Azerbaijan had taken a number of positive actions, for example dropping criminal charges against members of civil society. But the board still determined that Azerbaijan had not met EITI's civil society standards. John Harrington from Exxon Mobile, who also attended the board meeting, added that validation for Azerbaijan was not a close issue because the country had taken key actions only days before the board meeting. Ms. Warlick noted that the board was requiring Azerbaijan to take additional actions prior to the next board meeting to maintain its candidate status.

Ms. Warlick added that board members expressed concern about whether countries that have recently been validated — such as Mongolia, Indonesia, Peru, and Timor Leste — would be able to meet Candidate Status safeguard requirements moving forward. Similar concerns were expressed regarding the fourteen additional countries that will be ready for review in February 2017, and the seventeen country validations that will be initiated in 2017. There are concerns that a number of countries may eventually face suspension. Some board members suggested that it will be important to look to successful countries for lessons learned.

MSG members made the following comments and asked the following questions following Ms. Warlick's presentation; *Ms. Warlick's responses to questions and comments are indicated in italics*:

- Countries are facing the application of new safeguards and are wondering what they mean. Countries must make satisfactory progress on all four key components of the safeguard requirements in order to avoid triggering a decision on whether they will be de-listed. Countries are facing significant challenges on the civil society engagement component, even though the meaning of this component is not fully defined. Eventually, the board will need to consider the criteria for this component more fully. However, with respect to

Azerbaijan, this was not a close issue. *The EITI Board will have to reassess this situation in a few months.*

- Civil society safeguards are very important and are also a significant cause of challenges to validation. Are there lots of examples of other countries where the civil society situation is as extreme as in Azerbaijan, or is the issue generally less significant elsewhere? *Everyone agrees that civil society engagement is central to EITI. Requirement 8.3(c) is the new standard; it was altered last year and gets revised every three years. While it is important to set high standards and Azerbaijan clearly had more work to do on this issue, the jury is out regarding the rest of the validations. If nine out of every ten countries end up not meeting the standard, then it might be necessary to reevaluate the grading.*
- Countries are concerned about what happens if a government does all it can to open up space for civil society, but civil society groups still do not participate in the EITI process. While some countries have definitely closed civil society space, in others it is not clear how to evaluate the lack of civil society engagement.
- What are other Board members asking about or commenting about regarding the candidacy of the U.S.? *There is interest in how the candidacy of the U.S. is progressing, and concerns about how the U.S. will meet some requirements. However, there is a broad cross section of countries that have expressed appreciation at the assistance the U.S. has provided and that have suggested USEITI is a model.*

3. Workplan

Chris Mentasti, ONRR, reviewed the 2017 USEITI Workplan. He noted that the MSG is required to update and approve its workplan every year. The workplan must be linked to EITI principles, reflect the results of consultations with stakeholders, involve measurable and time bound activities, identify funding, be available to the public, be reviewed and updated annually, and include a timetable for implementation that is aligned with reporting and validation deadlines. Mr. Mentasti then proceeded to review the various sections of the workplan narrative.

Mr. Field suggested that participants pay special attention to the list of goals for 2017 appearing on page 7 of the draft workplan. Participants offered the following comments and asked the following questions; *responses from Mr. Mentasti are in italics:*

- Veronica Slajer, North Star Group, suggested it would be helpful to institutionalize some of the language in the workplan, so it is not connected to any particular administration.
- Lynda Farrell, Pipeline Safety Coalition, suggested adding clarity to the first sentence in the background section, to avoid suggesting the initiative began in 2011.
- Dan Dudis, Public Citizen, suggested adding a goal around redefining the universe of companies that are considered “in scope” through some other means besides the 80% of revenues approach. He suggested the current list of companies is heavy on oil and gas, and light on mining.

- Mr. Harrington concurred with this request. He added that the goal should be to reevaluate the basis for selecting companies for inclusion in reporting.
- Danielle Brian, Project on Government Oversight, suggested this approach could involve reviewing the materiality threshold, which is based on payments to ONRR. *Mr. Mentasti commented that he believed that is how this issue is currently phrased in the document.*
- David Romig, Freeport-McMoRan Oil & Gas, requested that the third bullet on page 8 be changed from “pre-feasibility” to “feasibility.”
- Paul Bugala, American University, asked whether there might be additional detail about the beneficial ownership process in the more detailed work plan. *Mr. Mentasti replied that all of the action items at the end of the beneficial ownership section were included in the narrative draft.*
- Mr. Mussenden suggested adding a bullet under national priorities stating “Leadership by example.”
- Ms. Slajer commented that it might be helpful to mention work that has been done with other countries, for example the bilateral work with Mexico, and note that this work is continuing into 2017. *Mr. Mentasti replied that this work is mentioned in the document in general terms.*
- Mr. Mussenden suggested adding a bullet under “funding and resource constraints” to request “any funding required to support validation,” generally, in order to reflect a small, \$10,000 contribution for validation. Mr. Gould noted that the desire is for this funding to be an annual payment.
- Mr. Romig asked whether, given that the MSG had discussed new work streams related to reviewing margin of variance, adding information to data portal, and other issues, it might be necessary to add those items into the workplan.
 - *Mr. Mentasti replied that it is possible to tentatively approve the document and then add these items after the fact.*
 - *Mr. Field clarified that the MSG can provisionally approve the workplan and then the Co-chairs can approve it with these additions.*
 - *Mr. Harrington added that it is a living document that is frequently changing.*

The 2017 USEITI Workplan was provisionally approved, pending the Co-chairs’ final approval.

- **Provisional approval: The MSG provisionally approved the 2017 USEITI Workplan, with final approval pending from the MSG Co-chairs. The USEITI Secretariat shall transmit the document to the EITI International Secretariat on or before January 1, 2017.**

4. Committee Member Retirement

Mr. Gould announced that Mr. Harrington would be retiring and leaving the MSG. Mr. Gould and other committee members thanked Mr. Harrington for his service and wished him the best.

C. Comments from Senior US Government Officials

Two government officials — Sally Jewell, Secretary of the Interior, and Mary Beth Goodman, Special Assistant to the President and Senior Director for Development and Democracy, National Security Council — offered comments to the MSG on the value of its work.

1. Remarks by Secretary Sally Jewell

Secretary Jewell offered remarks thanking the MSG for its work, praising the USEITI website, and noting the importance of the accomplishments and mission of the MSG. A full transcript of Secretary Jewell's remarks can be found in the appendix beginning on page 45.

2. Remarks by Mary Beth Goodman

Ms. Goodman provided additional words of thanks to the MSG. She noted that as a Senator, President Obama was inspired by EITI and its potential to transform economies in developing countries. There has been a huge amount of progress in the intervening years. When the Administration entered office there were 30 countries implementing EITI, mostly in the developing world. Now there are 51. The U.S. was the first of the world's major economies to announce its participation, and the results have been transformative.

Members of the MSG have been trailblazers in this effort, and have helped both to transform how we convey information in the U.S., and to expand and broaden EITI internationally. Internationally, President Obama has announced that this effort is part of an open government partnership, which involves seven heads of state. Within this partnership, there is a significant body of work involving private sector, civil society, and governments in anti-corruption efforts related to extractives. The USEITI online portal will be displayed at the next open government partnership meeting in December.

Ms. Goodman concluded by noting that she looks forward to hearing more about the MSG's work in the future.

D. Review and Approval of 2016 EITI Report and Executive Summary

Members of the Independent Administrator (IA) team from Deloitte and the team from GSA 18F provided updates on the reporting and reconciliation process and the 2016 EITI Report and Executive Summary. These updates and accompanying MSG discussions are summarized below.

1. Review of 2016 Reporting and Reconciliation

Alex Klepacz, IA team member from Deloitte, presented on the 2016 Reporting and Reconciliation Results. He noted that 25 companies reported and reconciled revenues out of 41 that were eligible, 12 companies reported taxes out of 38 eligible, and 7 out of 38 reconciled taxes. There were 21 explained variances, no unexplained variances, and 10 companies with variances. Compared to 2015, fewer companies reported and reconciled revenues, the same number reported taxes, and a greater number reconciled taxes. In 2016, 79% of total government non-tax revenue for in-scope companies was reconciled, versus 81% in 2015. Additional information is available in Mr. Klepacz's presentation slides, available online at: [XXXX].

MSG members made the following comment and asked the following question following Mr. Klepacz's presentation; *Mr. Klepacz's response is indicated in italics:*

- Are the types of variances recurring, such as the timing issues that have occurred in the past, or are there signs that companies are learning to avoid them? *There was a new issue this year with pay.gov. BP corrected it and others will do so as well. However, the other variances are not new issues. They include timing issues and accounting issues such as royalties being placed in the bucket of bonuses.*
- In terms of the degree of eligible reporting by companies, the data look fairly consistent from 2015 to 2016. Given market conditions and the number of companies in bankruptcy, keeping these numbers fairly even should be considered an accomplishment.

2. Review of Executive Summary

Sarah Platts, IA team member from Deloitte, reviewed updates to the 2016 Report and Executive Summary. She noted that the 2016 Executive Summary is significantly abbreviated as compared to the Executive Summary in the 2015 USEITI Report. New sections in this year's summary include state and tribal opt-in information and three new additions approved by the MSG: abandoned mine lands (AML) visualization, coal excise additions, and audit controls processes in the U.S. At the start of each section there is a callout box that explains how to find more information in the full report online. The review process for the Executive Summary involved distributing multiple iterations to the Implementation Subcommittee, the Co-chairs, and the Online Advisory Workgroup for their review and feedback.

Mr. Gould expressed thanks to Ms. Platts, and reminded MSG members that the majority of the information from last year's report is still available online. He suggested that the combination of the brief Executive Summary and the larger online report represents an excellent way to provide information to the public.

Mr. Mussenden asked the group for feedback or suggestions on the 2016 Executive Summary, and MSG members offered the following comments:

- Moving forward, more should be done to make sure MSG members all agree that the Executive Summary and the online portal accurately reflect their

thinking. For example, in the Contextual Narrative Subcommittee, there was a decision to break out jobs in extractives by commodity at the state and national levels, but this is not reflected in the Report. Jobs are the first issue that comes up in public outreach sessions.

- The Executive Summary is very strong. Moving forward, USEITI should develop a page where readers can see how many companies were eligible each year, how many reported, and what their revenues and taxes were. This would help readers identify overall trends and see whether participation is increasing.

3. USEITI Report/Data Portal

Michelle Hertzfeld and Corey Mahoney, GSA 18F, reported on progress and updates to the full 2016 USEITI Report and Data Portal. Ms. Hertzfeld noted that the website had benefitted from significant improvements over the past year, including process improvements that allowed the design team to get new usable information up on the site. She noted that because the MSG only meets two to four times a year, the Online Advisory Workgroup served a critical role in providing quick feedback, allowing the 18F development team to continuously test and add new information and develop new features.

Ms. Mahoney, a content designer with 18F, demonstrated various portions of the website. She noted that she and the other members of the team at 18F are very proud of the site and excited about what it can do. She explained that in a previous iteration, the website was organized by dataset. This confused users, who for the most part did not understand the datasets. Now, the site's "Explore Data" function is organized by location. The team discovered that users are interested in exploring data about the region in which they live. Currently, there is a national profile page and a series of regional profile pages.

Ms. Mahoney showed the page for Texas to the MSG, demonstrating how the page includes all location based datasets, walks users through these datasets in a logical way, and pulls in relevant contextual information. There is also improved mobile navigation and display, and connections between the state profiles and nearby offshore areas and case studies.

Ms. Mahoney suggested that the state profile pages are well set up to manage information coming from opt-in states. For Wyoming, Montana and Alaska the state-level data is incorporated seamlessly. There is also deep contextual information in a state governance section at the bottom of the page, and new color schemes and glossary items. Users can click on maps, expand them, see what numbers correspond to the maps, and see full tables of relevant information. The maps update by year.

There is also a "How It Works" section, which now has more of a Q&A format. This section contains all information that is non-location based, such as the AML reclamation program, company excise tax information, and audit and controls information.

Lastly, there is a “What’s New” section, which summarizes what is new on the website.

Ms. Mahoney offered an explanation of the data on revenue, economic impact, and jobs. She noted that the revenue data has lots of contextual information, which was confusing users, so there is now a chart that organizes revenue according to process. The chart includes pre-production revenue, during-production revenue, and actual rates. For revenue from production on federal land, there is data down to the county level. There is a state revenue section, but in most cases contains no information, except for the three opt-in state pages. There are data on ONRR disbursements back to the state and, if relevant, the data are out by offshore and onshore disbursements. There are economic impact data mostly down to state level, covering the full state, not just federal lands. There are two types of jobs data: data on wage and salary jobs down to county level, and self-employment data at the state level only.

In the discussion following Ms. Hertzfeld and Ms. Mahoney’s presentation, MSG members made the following comments and asked the following questions, organized by theme; *direct responses to questions and comments are in italics, with the speaker indicated, as relevant.*

Clarifying questions

- Mr. Mussenden asked for clarification on the source of the underlying data activity at the state and county level. *Luke Hawbaker, IA team member, replied that they come from state and county level governments.*
- Mr. Mussenden next asked where production-level data is located on the website. *Robert Kronebusch, ONRR, answered that it is located in Explore Data ➔ Production. It comes from ten years of data from ONRR Form 2014, reported to ONRR in its production and royalty reports. Royalty reports by county are also available in the USEITI Report.*
- Mr. Mussenden asked whether production on state land is included.
 - *Mr. Kronebusch replied that it is not included, at least not from federal ONRR sources.*
 - *Ms. Mahoney added that there are a number of different production data sets that feed into the USEITI Report. They have production on all lands, US Energy Information Administration (EIA) datasets, and federal lands production. In each section, they have a data and documentation link to detailed notes on where data comes from, data sources, and how they used the data.*
- Mr. Mussenden asked whether this information can be accessed both through the location-based portion of the site and through “Explore Data”; *Ms. Mahoney replied in the affirmative.*

Overall impressions

- Mike Matthews, State of Wyoming, noted that the website has exceeded expectations, in particular through its very usable and accessible use of rolled up data, and policymakers have begun referring to it already.
- Stella Alvarado, Anadarko Petroleum, added that the website is excellent and that it is especially helpful to put so much information on one page. She suggested it will benefit research, analysis, and policymaking.
- Betsy Taylor, Virginia Polytechnic Institute and State University, suggested it is important to let the public know about the limits of the data, and whether it is confusing or potentially inaccurate. She added that it would be helpful to have more of an indication of the category of the state level information, such as whether it is from the coal or natural gas sector, and that the state level data should also include renewables. Next year, she said, USEITI should give some more careful consideration on how to present this data. Ms. Taylor also suggested it would be helpful to obtain notes from 18F on how decisions were made on what datasets to include on the website. *Ms. Hertzfeld promised to direct the MSG to the portions of the website that contain this information.*

Jobs and revenue data

- Danielle Brian, Project on Government Oversight, asked whether jobs are identified. *Ms. Mahoney answered that jobs appear under "Economic Impact." If extractive industry jobs comprise more than 2% of state employment, that number is noted on the state page and there is a link to that data for the state. State pages will also note any significant "all lands" production information, and make note of the profile of landownership in the state. If a state ranks in the top five among states in production of any resource, that resource is listed on the state page. There is information on energy production across the state regardless of land ownership, and ten-year trend lines that update automatically. The state pages also include federal land production, for which there is county level data.*
- In response to a question from Mr. Mussenden on whether it is true that data from the state and county come from production on federal lands, *Ms. Mahoney answered yes, and Mr. Kronebusch added that the state data come from EIA. Ms. Mahoney further added that the EIA data generally do not include county level data.* Ms. Brian asked whether the economic impact data are for all extractives, not separated by commodity.
 - *Ms. Hertzfeld replied yes, and noted that they were uncomfortable using the commodity categorizations because they were different from what appears on the site elsewhere.*
 - *Mr. Hawbaker added that the datasets used for the "Economic Impact" section are very rarely broken out by commodity.*

Unit conversions

- Mr. Matthews suggested it would be helpful to add a feature allowing users to convert MBTUs to megawatt hours generated, which would make it possible to

compare the cost of production of coal versus natural gas using the same units. *Ms. Mahoney replied that the website does not currently offer unit conversion, although it does have definitions of units. She suggested this is an area where they could improve usability going forward.*

- Mr. Dudis added that convertibility is important, but comparisons among energy types should not just be about price. There are other things that are important to the U.S.'s energy mix beyond just cost.
- Ms. Farrell suggested that for civil society, until USEITI takes into account the full spectrum of what "cost" means, the website needs to be clear about the limits of what it presents. Any cost analysis on the site should be clearly defined.
- Mr. Romig suggested that USEITI's focus should be on transparency of revenues as it relates to payments to the government, not other issues like cost.

Transition from 18F to the Department of Interior

- Paul Bugala, American University, asked about what challenges are expected in light of the upcoming transition of creation of the USEITI Report from 18F to the Department of Interior, and what is being done to make sure the data remain as useful in the future as they are today.
 - *Mr. Gould commented that there should not be any changes. They do not intend to change the data gathering process or the technical expertise of the staff.*
 - *Ms. Hertzfeld added 18F will be working closely with the Department of Interior over the next fiscal year to help ensure a smooth transition.*

Usability

- Betsy Taylor, Virginia Polytechnic Institute and State University, commented that the portion of the site that helps users navigate other websites is very helpful, and suggested a chat room would be another helpful addition. She also suggested they should consider the reusability of the info-graphics and the site overall. Currently, screen capture is the only way to capture some of the charts for use in Powerpoint. They should make it easier to reproduce the charts and print them out. *Ms. Hertzfeld replied that they are working on this last issue and that there are a few upcoming improvements but that these suggestions will need to be discussed further.*
- Ms. Brian asked whether it might possible to provide production data at less aggregated levels, as aggregated data is less useful.
 - *Ms. Hertzfeld replied that the ability to provide something less aggregated depends on the type of production data.*
 - *Ms. Mahoney added that there are two datasets. First, there are EIA data, which were available previously, and are nationwide for energy commodities only. Second, with EITI, they now have data on production on federal land down to the commodity. They have data on a lot of*

commodities, but on each state page they only show the commodities available in that particular state.

Non-royalty bearing commodities and USGS data

- Mr. Gould asked whether the production data include only royalty bearing commodities, and Ms. Brian added that there is a concern that they may be inaccurately representing that production is not occurring just because there is no revenue data. *Ms. Mahoney replied that they have been as careful as possible about the phrasing on this issue. For example, they have said, "There are no data about production of gold and silver on federal lands."*
- Ms. Brian noted that USGS collects some data on non-royalty bearing commodities, and asked whether they could include that data in some form.
 - *Mr. Gould noted that the USGS data are accurate but not complete.*
 - *Ms. Mahoney added that they have discussed linking to the USGS pages.*
 - *Ms. Hertzfeld noted that the USGS data are released in the form of research reports in pdf form and with each commodity structured differently. She suggested it would be extremely labor intensive to integrate these data into the USEITI report without obtaining the data in a machine-readable format.*
- Ms. Brian asked whether it would be possible to speak with USGS to see if it has a dataset they could use. *Mr. Gould responded that the USGS data are typically compiled for research reports, and they may be many years out of date. The USGS reports provide useful historical data, but they are less useful as a source of yearly summary data.*
- Mr. Mussenden commented that considering the value of the USGS data, it might be helpful to better understand the data's shortcomings and how they could be enhanced. *Ms. Mahoney responded by noting that they link to the USGS data when possible and when they're available, for example in the contextual information for some opt-in states in contextual information. They have not found a way to do this programmatically for every state.*
- Mr. Dudis suggested that instead of saying there are no data for commodities like gold and silver, it might be more accurate for the site to say "N/A." He also asked why there are data on the site about obscure minerals, but not gold and silver. *Mr. Gould noted in response that they have information for royalty-bearing minerals on federal land, not minerals governed by statutes that do not require royalty payments to mine. The Mining Act does not require them to collect royalties, but all of those other obscure minerals are royalty bearing. And there is a lot of state production for which they do not receive revenue.*
- Ms. Taylor suggested that going forward they should conduct a systematic evaluation of the quality of the data, and bring key decisions to the MSG. She noted her concern that the pressure to get data up on the portal has led to quiet decisions on data quality, which has meant some data are not considered publicly available. If data that do not rise to the standards do not appear on the

website, it makes it look like that data do not exist. She suggested they need a more systematic and thorough conversation on how to grade quality of data.

- *Mr. Field commented that the MSG had long conversations in previous years on USGS data, as well as the jobs data. Those were transparent decisions made by the MSG.*
- Ms. Taylor responded that when there is in fact production and they are simply not using a data source, they need to be careful not to represent that there is no production.

Final comments

Mr. Mussenden thanked the design team for reviewing the online report and the data with the MSG. He expressed excitement at how the website has been continuously improved and allows the MSG to respond in real time to user needs, and suggested that the report is less a final product than an evolving model for how to enhance public access to information. Even though the hard rock minerals data are incomplete, they can still generate important debate among users. Other countries, like Germany and Mexico, as well as EITI International, are already using the USEITI site as a model. The value of what the MSG and the design team have accomplished is being validated. The MSG then endorsed 2016 USEITI Report, Executive Summary, and Appendix.

- **Endorsement: The MSG endorsed the 2016 USEITI Report, including the online report, the executive summary, and the appendix.**

E. Meeting the EITI 7.1B Open-Data Requirement

Judy Wilson discussed and presented a draft USEITI MSG Endorsement of Open Data policy document. Under Requirement 7.1.b, which will come into force on December 31, 2016, the EITI International Board will require MSGs to “Agree on a clear policy on the access, release and re-use of EITI data.” Ms. Wilson noted the key components of the USEITI approach to open data, including a January 2009 memorandum on rapid and accessible disclosure, a May 2013 Executive Order on open and machine readable government information, a December 2013 national action plan on open government, and a February 2015 discussion on open government data principles as the standard for contextual data in the USEITI Reports. Additional information can be found in Ms. Wilson’s presentation slides, available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/eiti_open_data_requirement.pdf.

Ms. Wilson suggested one minor revision to the language in the draft USEITI MSG Endorsement of Open Data, and requested the MSG endorse the policy with this revision. Ms. Johanna Nesseth, Chevron, suggested adding a sentence on documentation of which datasets are being used and why. With these two changes, the MSG approved the Endorsement of Open Data.

- **Approval: The MSG approved the policy statement titled “USEITI MSG Endorsement of Open Data.”**

F. Communications Subcommittee Update

1. Results of October Montana and Louisiana Outreach

Veronika Kohler, National Mining Association (NMA) and Chair of the Communications Subcommittee, reported on the outreach and listening sessions the subcommittee has implemented. She noted that the MSG is now conducting what it terms “listening sessions.” On September 15, 2016, it conducted a session with Congress to showcase the USEITI report. The overall reaction was positive, and participants asked thoughtful questions on a variety of topics from USEITI’s relationship to Dodd-Frank to the selection of the materiality threshold.

There were two listening sessions in Montana from October 5-6, 2016, and another listening session in Louisiana on October 19, 2016. The sessions were used to highlight the case studies that the subcommittee believed would attract greater participation. The Communications Subcommittee publicized the events through flyers, email lists, local media contacts, and social media blasts, and worked with the State and Tribal Opt-in Subcommittee. The Communication Subcommittee’s email list alone now has over 600 personal and organizational recipients. The Communication Subcommittee also distributed information to roughly 20 local organizations.

Although there were good discussions in these meetings, the level of participation is still lower than they want. Ms. Kohler suggested it is possible they may not be doing a good enough job disseminating information, but noted that they engaged in substantial additional effort and it did not result in additional participation.

2. Status of 2016-17 Communications Strategy

Ms. Kohler suggested that the MSG might rethink its strategy for outreach and the listening sessions. She noted that the Communications Subcommittee tried to be strategic in its outreach and planning for the Montana and Louisiana listening sessions, for example by making them easy for participants to attend, holding them at convenient times, and engaging with local leaders or conveners, but these approaches did not increase the level of public participation as compared to the previous round of outreach sessions. The subcommittee might need to consider overhauling its approach. For example, it might opt not to send representatives from all sectors, it might utilize the MSG more, or it might rethink which stakeholders to target. Additional information can be found in Ms. Kohler’s presentation slides, available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/outreach_communication_presentation_nov2016_msg.pdf.

Ms. Kohler highlighted three main questions for future consideration:

- How can the Communications Subcommittee address limited turnout? Should it use forums with built in audiences?
- What kind of focused advertising works best on the local level?

- Which stakeholder groups is USEITI trying to attract, people from the county, students, members of Congress, or others?

During the facilitated discussion following Ms. Kohler's presentation, Mr. Field suggested participants think about successful meetings where lots of people have shown up, and the factors that made these meetings successful. MSG members made the following comments, organized by theme; *direct responses from Ms. Kohler are indicated in italics.*

Messaging

- People show up when they are angry about something, when there is a decision about to be made, when there is controversy surrounding an issue like corruption, or when the meeting involves something very local and directly connected to them. It is hard to get people to come out to "good news" events. Unless there is interest in both the subject matter and the people involved, meetings are unlikely to succeed. For these reasons, USEITI should try to directly link its information to a local policy issue or ongoing policy conflict, in which the data could help create a platform for debate. However, it should avoid being locked into any one controversy. In addition, it should message by geography and demographic, and not publicize using a one size fits all model.
- Targeting people through organizations can be effective. People may be open to new ideas or points of view endorsed by organizations with which they are affiliated. In addition, in the current political climate, communities likely will be paying a lot more attention to how development is conducted. This may present an opportunity for USEITI to foster increased interest in its work.

Advice for more effective meetings

- USEITI should explore engaging in preexisting events, conferences or public meetings, and working with partner institutions such as a local university, local representatives at a high school, or a rotary meeting. However, it should be aware that partnering and joining other events involves a longer planning timeline. In addition, industry representatives may have greater difficulty reaching out to people and getting on a meeting agenda as an EITI member, and it may be easier using a different rationale.
- The best events on complicated policy issues are held in Washington, because people in Washington understand what you are talking about and they know how to translate it back to their constituents back in the states. It is difficult, and more resource intensive, to do events outside Washington even if you use a local partner.
- The Communications Subcommittee should market its meetings by highlighting data of local concern, like the number of jobs created in your county, or the money being brought into your county. *For these most recent sessions, the*

Communications Subcommittee created one-pagers with this kind of information, and it was not effective in increasing participation.

- How does the Communications Subcommittee currently work to keep those people who do show up engaged? *The subcommittee uses sign up sheets at all events and if someone calls in it gets their information and puts them on its email list. Except for in Louisiana and with Congressional outreach, for the most part there have not been repeat attendees.* An MSG member suggested that instead of providing a flier that provides answers, the Communications Subcommittee could ask provocative questions like, “How many jobs have been created?” or “How much money is being generated and how much is coming back?”
- The Communications Subcommittee should do more to document the discussions at the listening sessions, so it can share the key messages that come out or the controversies that interest people with the MSG.

Representation at USEITI meetings

- The MSG may want to revisit the Terms of Reference stating that individuals should not represent the EITI process, so that all subsectors do not need to be represented at every outreach event. Historically, civil society and industry come from different perspectives, with industry trying to justify the value of its work to local communities, and civil society groups being somewhat hostile to industry interests. Over the past few years, members have built a lot of trust within the MSG, and at this point USEITI may be able to have representatives speak across constituencies, for example civil society could speak to the role of industry. *The subcommittee has not proposed this yet, and if it did so it would come back to the MSG first for input. The subcommittee may have a proposal on this issue in February.*

Targeting stakeholders

- USEITI should consider whether it is engaged in a “wholesale” or “retail” activity in collecting and disseminating information, and target more specific sets of stakeholders. It might try to speak more directly to undergraduates, graduate students and others in the communities and states it is working in who may have the time to actually use the data and but do not know it exists. USEITI could also ask university professors to integrate it into their work. Graduate school professors are always looking for datasets for their students to mine and analyze. Other potential target stakeholder groups include policymakers in Washington, DC or state capitals, legislative staff, state civil society, auditors, and landowners interested in pricing data.
- USEITI should explore developing partnerships with schools and universities. However, there is a question as to whether USEITI can go directly on campuses. USEITI cannot go on private campuses, but it may be able to go on public university campuses. The issue is about receiving gifts. However, USEITI has engaged in some outreach to universities. It has developed a list of deans at

particular schools, focusing on 18 priority states, and sent out emails. There may be a need to reach out in a more personal way, such as by phone.

- As USEITI moves forward with this work, it will be critical for MSG members to use their existing networks. For example, with Alaska and Wyoming in 2017, USEITI should put MSG people in the lead who are from those states.

G. State and Tribal Opt-in Subcommittee Update

1. Report Out and Update on Engagement with States and Tribes

Danielle Brian, Project on Government Oversight (POGO), Co-Chair, provided an update on engagement with states and tribes. Ms. Brian thanked MSG members for helping get Alaska, Wyoming, and Montana to agree to opt in to USEITI. She asked MSG members to reflect on which states it should be targeting in the future. For example, last year they connected with a representative from North Dakota who was enthusiastic about further engagement, and North Dakota already has a lot of information online.

Ms. Brian provided an update on tribal opt in. She noted that the Subcommittee recently had a meeting with the Blackfeet Tribe, which invited them to come back for a day-long meeting to talk about what opt-in would mean. They are also planning to try to reengage with the Osage tribe in 2017, which has expressed interest. They are hopeful there will be at least one tribe opt-in in 2017.

MSG members made the following comments and asked the following questions; *direct responses to questions and comments are indicated in italics, with the speaker indicated, as appropriate:*

- USEITI should target specific contacts. Dennis Roller, state auditor for contracting in North Dakota, should be its next target for engagement in North Dakota. Rinn Peterson from Colorado is another potential contact.
- The MSG should continue to use the process that Deloitte has developed for state and tribal outreach. How many states are in the Deloitte contract? *Deloitte representative: The current contract has three states and five total if tribes are included.*
- The USEITI should consider counties that stood out when MSG members were conducting calls to states about counties that were going to be featured, and use the information and contacts it gained from those calls. However, it is hard to say definitively which stood out without documentation. *Ms. Brian: In addition, there is a goal to target more East Coast states because currently USEITI is concentrated in the West.*
- USEITI should think about using a regional approach, since pipelines cross state lines.
- If there is interest from states outside the list of 18 states, could those be brought to the subcommittee? For example, in Virginia parts of the state would be very interested. *Yes, the subcommittee would not turn people away.*

2. Presentation of Request for Extending Adapted Implementation

Mia Steinle, Project on Government Oversight, summarized a draft document being developed to request an extension of Adapted Implementation for USEITI's subnational and tribal opt-in. She noted that the MSG is requesting an extension for subnational reporting to the EITI International Board in light of the barriers to getting all states involved in USEITI. The document also notes that tribes are not subnational governments in the U.S. and USEITI does not believe they fall under the scope of EITI. Because the international audience might not understand the structure of tribal governance and sovereignty in the U.S., and why tribes should not be part of EITI unless they agree to it voluntarily, the document tries to lay this case out carefully.

The document also attempts to show how and why the MSG's view of what opt-in entails has evolved. Before, they had outlined three steps to the process: first they establish a point of contact, second they get a state member on the MSG, and third they move forward with enhanced opt in. Now, they no longer believe they can have members of subnational governments on the MSG because it would not be possible for the MSG to function with an additional 50 members. They have worked and will continue to work to ensure that subnational governments are involved even if they are not on the MSG, and the document describes the various degrees of engagement by Alaska, Wyoming, and Montana.

Jerry Gidner, Office of Natural Resources Revenue, provided further detail as to why tribes cannot be considered "subnational entities" under EITI standards. Tribes are sovereign entities and own their mineral resources. When the federal government collects revenue on these lands, it does so as a trustee and directs all of it back to the tribes. This trust responsibility prohibits the federal government from releasing data or compelling the tribes to release it. The document also notes important progress that has been made on these issues, such as the fact that three tribal governments have representatives on the MSG, and reports that they are in continued discussions with tribes.

MSG members made the following comments and asked the following questions; *direct responses to questions and comments are indicated in italics*:

- Mr. Mussenden commented that initially they referred to this as a request for partial adapted implementation because they can satisfy the requirement for disclosure of payments from the federal government to states. He noted that, in the document, he did not see much discussion of this fact.
 - *Ms. Steinle replied that they took the relevant language from the USEITI candidacy application and bolded the relevant portions of the requirement.*
 - Mr. Mussenden added that USEITI can satisfy the language in Requirement 5.2(a) because USEITI fully discloses transfers from the federal government to the states. He suggested noting this in the request for adapted implementation.

- Mr. Romig suggested that they should include in this request more about voluntary reporting and the government's move towards unilateral disclosure. Unilateral disclosure is a strong pillar of their application process, he suggested, and they have built most of the website around it.
- Mr. Harrington noted that since the U.S.' validation has been deferred until 2018, USEITI may want to look at this issue more closely next year and see if it can make the argument persuasively. *Ms. Steinle responded that this is a renewed request for an extension and it doesn't include a specific date.*
- Mr. Mussenden asked whether there was a decision to separate out the unilateral disclosure argument from this request.
 - *Ms. Brian responded that no such decision had been made to her knowledge, and noted that they can look to add more information on unilateral disclosure into this request.*
 - *Ms. Steinle suggested that this would be a good idea as long as they are clear that it is a Department of the Interior disclosure and not an MSG disclosure.*
- Mr. Romig commented that this document has been developed and vetted, and he did not want to delay it. However, given that they have talked a lot about this topic over the last 1.5 years, and emphasized that their data is reliable, he suggested they should include language about the strength of their unilateral disclosure.

The MSG agreed to add language to the document explaining that federal transfers to states have been unilaterally disclosed. Subsequently, the document was amended and the MSG decided to submit the Application for Extension of Adapted Implementation to the EITI International Board.

- **Decision: The MSG decided to submit the Application for Extension of Adapted Implementation to the EITI International Board. The USEITI Secretariat shall transmit the document to the EITI International Board on or before January 1, 2017.**

H. IA Recommendations for 2017

There were a series of presentations and discussions on IA recommendations for 2017.

1. Improving the Efficiency of the Reconciliation Process

John Mennel and Alex Klepacz, IA team members from Deloitte, presented ideas on how to make the reconciliation process more efficient over time without losing the value of transparency or disclosure. Mr. Klepacz noted that EITI Requirement 4 asks for reconciliation of data, taxes, and revenue. The question is how to meet that requirement more efficiently. The U.S. has now gone through the process for two years, and 19 of the 21 issues that came up in year two were also seen in year one. The IA team had considered three ideas to improve efficiency: sampling, review of the Department of Interior (DOI) audit process, or addressing margins of variance.

a) Sampling

With respect to sampling, the IA recommended a sample size of 27 companies, including all 10 of the companies in the largest size strata, 9 of 13 companies in the middle size strata, and 8 of 18 companies in the bottom size strata. They then looked at the data they received for the full reconciliation process and compared it to what they would have received through sampling. Under the sampling procedure, total government non-tax revenues for in-scope companies went down, as did the total number of companies reconciled.

Mr. Mennel noted that IA was recommending not to go forward with sampling for at least another year for two reasons: 1) EITI countries are required to have a representative sample but because of the voluntary nature of reporting, USEITI might not have enough companies to create such a sample; and 2) right now USEITI has 80% of revenue accounted for, and that percentage would go down under sampling. This could result in bad optics before the EITI Board.

An MSG member asked the following question on sampling; *the response from Mr. Mennel is indicated in italics:*

- Is sampling intended as a one-time exercise to demonstrate whether it can meet the letter and spirit of the requirement, or would USEITI switch to it as means of reporting each year? *The idea was to assess whether USEITI should switch to it on an ongoing basis, and the IA team believes that this would not be advisable at this time.*

b) Review of DOI Audit Procedures

Mr. Klepacz reported on the IA's review of DOI audit procedures. As part of the annual DOI audit process, an independent auditor performs set of procedures, including sampling and testing, to make sure financial statements meet a certain standard. In October 2016, the IA was asked whether USEITI could repurpose this audit process and see if it might satisfy EITI requirements, potentially with some modifications. The IA is set to begin looking at this question, and whether it might be more cost-effective than the current reconciliation process.

Mr. Gould noted that the Implementation Subcommittee would address this issue at its November 30, 2016 meeting, and have a conversation on timing and next steps. There will be a presentation on it at the February 1-2, 2017 MSG meeting. Mr. Gould also reminded the MSG of its intention to include a broader discussion of these issues as part of the contextual narrative, so it can be well documented in the 2017 Report if the MSG decides the new approach workable. An IA representative cautioned that it is unlikely these issues could be resolved in time for reconciliation in 2017. Given that EITI Requirement 4 specifies that governments and companies must provide data, and those data must be reconciled, the approach would likely need Board approval.

Mr. Mussenden suggested that if the IA's analysis supports the view that the current processes are equivalent to reconciliation, then the MSG would promote these processes. He suggested that this analysis may not be completed in time for companies to utilize it in 2017, but if so then the MSG would aggressively pursue it.

MSG members made the following comments and asked the following questions on DOI's audit procedures, organized by theme; *direct responses are indicated in italics, with the speaker's identity noted as appropriate.*

Clarifications and overall reactions

- What does reconciliation actually involve and how deep is the review? *Mr. Klepacz: It involves looking at the payments made and reported by companies, and the information provided by government on revenues reported by companies. The IA reconciles the two numbers and both governments and companies confirm their information is correct. If the company and government both report the same numbers, it is considered reconciled. But if the numbers are different, and outside a margin of variance, then the IA works with both to determine the source of the discrepancy. For example, it could be an issue related to timing, to pay.gov, or to classification.*
- This new approach might not just be more efficient, but also more meaningful and thorough. Currently you get companies' data and DOI's data. But DOI's data has come from those same companies. This new approach would use Treasury Department data on money received, and match it with companies' reporting to DOI. *Mr. Mennel: That characterization of the current approach is not entirely correct. USEITI is not just reconciling company data with company data. It is reconciling what ONRR shows it is owed with what companies say they're providing.*

Safeguards in the current system

- ONRR has a well-developed system and might already be doing what has been suggested.
 - *ONRR Representative: ONRR has a process involving thorough up front edits and data mining to make sure reported figures are reconciled.*
 - *Mr. Mennel: The IA will take a look at this issue. It's a fairly complicated topic so the IA should look at it carefully. The IA is looking at transaction level detail and finding opportunities to clean things up. It's possible the audit procedures will involve a broader set of transactions and be more comprehensive.*
 - *Industry representative: ONRR receives reporting from Oil and Gas Operations Reports (OGORs). Companies are required to submit volumetric information with meter statements, and they get audited on those meters. The auditor considers meters to be similar to cash registers, and they must match the money companies are reporting. The meters*

must have all the required technical specifications and controls, and the volumetric data are evaluated carefully.

- *State Representative: Sometimes, states audit the federal system. In our state, for example, we initiated an audit and arrived at our own conclusions to make sure the state was getting its distributions as appropriate. The U.S. audit process exceeds anything EITI could ever hope to achieve. Reconciliation adds no value in the U.S., and the issue is simply whether to meet the EITI standard.*
- The initial reporting USEITI makes each year is from information reported by industry. It is not audited information. *Industry representative: The information has multiple safeguards to ensure it is accurate. Companies are required to notify the Bureau of Land Management (BLM) and the Bureau of Safety and Environmental Enforcement (BSEE) prior to any meter calibration on a transfer meter, and there are representatives from multiple institutions present witnessing the meter reading. BLM and BSEE get the meter statements and compare them against the reported data that companies file. They are looking monthly at the volume information on key company assets to ensure it matches both the company and the pipeline. Companies also need to show a pipeline statement and deliver it to BLM and BSEE for review. And when companies get audited, this information is turned over again.*
- USEITI needs to explicitly and carefully express where the data is being reported so that there are no questions about USEITI's process when the U.S. is validated. *Mr. Mennel: That is a good point. USEITI already does a fair amount of describing of the validation and controls process in the U.S. This process will help USEITI dig into details even more.*

Industry perspectives

- Industry has new evaluation rules and regulations coming into place in 2017. They will be costly and require realignment of resources. Industry is paying more attention to these requirements, which are mandatory, than to EITI, which is voluntary. In addition, companies are currently going through divestitures, which makes things even more complicated. With commodity prices at their current level, my company has 30% less staff than the first time it did this. Moving forward it will be difficult to maintain the same level of participation.
- The reconciliation process is labor intensive. It takes three or four man-weeks for big companies to do this. Just completing the report takes a lot of time, and then reconciliation takes even more time. The last few years that my company did it, it found nothing of substance. If USEITI were to make it easier it would find a lot more companies willing to participate.
- Companies have to be so careful that there are no inadvertent mistakes made with respect to their mandatory reporting requirements. They are working with fewer resources, managing new requirements, and trying to fulfill requirements that have stiff penalties for any inadvertent errors. They are unlikely to spend additional resources on something voluntary like EITI. *ONRR Representative:*

ONRR constantly tries to make changes and improvements to its process. ONRR tries not to penalize routine mistakes.

Timing

- Although the IA recommendation was to look at the audit process next and make any changes to the reconciliation process in 2018, the MSG should consider whether USEITI can implement recommendations on the DOI audit process and reconciliation in time for the 2017 Report.
 - This is unlikely to be possible in 2017. Unlike the recommendation on margin of variance, which is entirely within the control of the MSG, the recommendation on the audit process involves other parties and will take longer. The MSG needs to ask the Board if it can do what the IA is suggesting.

Concluding thoughts

- Initially, the review of DOI audit procedures was also for purposes of determining the potential for mainstreaming. USEITI should include some linkages to that issue in the report.
- It is clear there is a lot of interesting work at many levels to ensure this data is accurate. However, that is not clear to the public. More information on DOI's audit procedures would help build trust in USEITI's processes. It is critical to document these procedures comprehensively.
- Despite the rigor of the ONRR process and industry data, it might not be sufficient to meet the international standard.

c) Scope and margin of variance

Mr. Klepacz next discussed potential changes to the scope and margin of variance of reporting as part of the MSG's annual agreement on the reconciliation process. The IA found examples of variances where the low dollar values of particular transactions resulted in high variance percentages. In one example, a 64.62% variance resulted from a \$2,000 difference in reporting by the government and the company. Given that there are now two years of variances that have all been explained, the IA has suggested that it should study whether there may be ways to adjust the scope and margin of variances that could reduce the level of effort by companies and the government. USEITI now has 40 documented variances, all of which have been explained, and may be able to make some helpful changes.

MSG members made the following comments and asked the following questions on scope and margin of variance; *responses are indicated in italics, with the speaker's identity noted as appropriate:*

- One company had to investigate a \$25,000 variance after generating millions of dollars in offshore extraction, instead of focusing on doing their jobs and perfecting safety and performance. *Industry representative: That variance resulted from a field problem.*

- Should these ideas be included in the Report?
 - *Mr. Mennel: They are amplifications of Recommendations 2 and 5. They're not in the Report because those are supposed to be broader recommendations, and because the MSG's thinking has progressed in the few months since the Report was drafted. In addition, this presentation is giving us the details behind the recommendations in the Executive Summary, and the MSG can add it to the Report next year.*
 - *Mr. Field: CBI will make sure to report on these ideas in the meeting summary.*
- Timing issues are very common. Companies and the government spend a huge amount of time reconciling the differences between their fiscal years. USEITI needs clear ways to spot timing issues that lead to variances and fast track them. How can USEITI address the calendar year reporting issue systematically to eliminate wasted time and effort when this issue comes up unexpectedly? *Mr. Klepacz: Now that the government and the company know of this particular issue, they can predict it moving forward and be able to address it very quickly. However, there is no way to look immediately at a variance and see that it is a timing issue. Unless you dig into it you can't know the cause.*
- The Executive Summary does not quite reflect what the MSG is hearing today. It states that USEITI should "include greater disclosure of transaction-level detail." That sounds like the exact opposite of what MSG members are now suggesting. This discussion should be documented, and the website should be supplemented when USEITI goes to the International Board.
- The MSG should be cautious about how it talks about margin of variance. The margin of variance exists because USEITI decided variances below a certain threshold are not material.

Mr. Mennel summarized the IA's recommendations on these options moving forward. Of the three options identified, the IA recommended that sampling not go forward for next year, but sampling could be revisited in the future. The IA also suggested that they review the DOI audit procedures to see if it is possible to supplement or replicate the reconciliation process, to implement in 2018. The IA also suggested the MSG take forward the recommendation to review the reconciliation scope for 2017 in light of the history of transactions they have developed. Additional information can be found in Mr. Klepacz and Mr. Mennel's presentation slides, available online at: https://www.doi.gov/sites/doi.gov/files/uploads/rr_efficiencies_msg_presentation_20161109_vfinal.pdf.

Mr. Gould suggested that the subcommittee would consider the recommendations in the coming year.

2. Key 2017 Decisions and Decision Dates

Sarah Platts reviewed the decisions that the MSG will need to make in February 2017. These include deciding which if any new commodities will be added to the scope of

reconciliation. Adding a new commodity would impact reporting and reconciliation, which requires MSG approval. Per Federal Advisory Committee Act (FACA) requirements, materials on this issue would need to be submitted to ONRR by January 17. Adding a new commodity would also mean generating two new county case studies. For these reasons, if there are any new commodities people want to add, this needs to be brought up to the subcommittee so they can be vetted.

In addition, the State and Tribal Subcommittee will need a final list of states and tribal opt-ins by April. Currently, the IA contract does not include state and tribal opt-ins or new commodities. They can be included if ONRR exercises an option, but ONRR needs to know to do this in time.

The February 2017 meeting will also involve deciding on new contextual narrative additions. In the meeting, the group will need to approve the topics, but not the actual work products. Ms. Platts noted that potential contextual narrative additions for 2017 include the following topics:

- A special highlight on renewable resources
- A special highlight on forestry
- An interactive way to sort through and navigate the laws, statutes, and regulations based on relevant lands and natural resources

Mr. John Cassidy, IA team member from Deloitte, added that the February meeting could include more than these three topics, and members were free to suggest additional ideas.

Ms. Platts concluded her presentation by reviewing the reporting and reconciliation timeline for 2017 and the 2017 timeframes and deliverables. Additional information can be found in Ms. Platts's presentation slides, available online at: https://www.doi.gov/sites/doi.gov/files/uploads/20161108_2017_key_dates_and_decisions_vfinal.pdf.

MSG members made the following comments and asked the following questions on Ms. Platts's presentation; *responses from Ms. Platts and Mr. Cassidy are indicated in italics, with the speaker indicated:*

- Where did the three contextual narrative ideas come from?
 - *Mr. Cassidy: The IA collected them throughout the year. The IA tries to keep track of ideas people discuss in MSG or Subcommittee meetings.*
 - *Ms. Platts: They reflect what the IA has heard from members about spaces where there may be opportunities to tell more of the story from the U.S. perspective.*
- It would be helpful to talk about different types of technologies.

- Before the MSG decided on the content for the first report, there were some good materials developed regarding USEITI's thinking on renewables and forestry. The MSG should review those materials.

I. Lease-level Unilateral Disclosure

Robert Kronebusch presented on the potential for DOI to move forward with lease-level unilateral disclosure, a step beyond the current unilateral disclosures. He noted that DOI currently unilaterally discloses calendar year 2013-2015 revenues at the company, revenue stream, and commodity levels on the USEITI Data Portal. There is a \$100,000 per company (and its affiliates) reporting threshold. He then reviewed the ONRR definitions of "lease," "right-of-way" (ROW), and "right-of-use and easement" (RUE) as they would relate to the SEC Dodd-Frank Section 1504 definition of a "project". He noted that the current lowest level of reporting that comes to DOI and ONRR is in the form of a lease. ONRR gets paid on the basis of leases, ROWs, and RUEs.

Mr. Kronebusch reviewed the number of leases, ROWs, and RUEs reported to ONRR in CY2015 (~47,000), which were disclosed on the data portal, and provided data on lease sizes. He noted that the Section 1504 project definition references agreements and that DOI has "communitization agreements" and "unitization agreements," and offered definitions for each. He suggested that unitization agreements can be very large, up to 1 million acres. He then presented figures on the number of agreements reported to ONRR in CY2015. The total number of leases, ROWs, RUEs, mines, and agreements for CY2015 was over 57,000, or roughly 10,000 more than the total number of leases. This is because, even though agreements aggregate leases, a single lease can be associated with many different agreements. The relationship between leases and agreements is complicated, and roughly a third of all leases are involved in communitization or unit agreements.

Mr. Kronebusch further noted that BLM and ONRR have different lease naming conventions and OSM collects at the mine level not the lease level. Additional information can be found in Mr. Kronebusch's presentation slides, available online at: https://www.doi.gov/sites/doi.gov/files/uploads/lease-level_udr_presentation_final_11-09-16.pdf.

MSG members made the following comments and asked the following questions on Mr. Kronebusch's presentation, organized by theme; *direct responses from Mr. Kronebusch, his colleague at ONRR, Nathan Brannberg, and others are indicated in italics, with the speaker identified as appropriate.*

Overall reactions and clarifications:

- Has ONRR looked at geographic interconnections? For example, in the Gulf of Mexico, there is one facility measurement point for oil and one for gas and they cover a dozen leases. Industry would call that one project and it could create a reconciliation problem. Does ONRR have all that information in its system? *Mr.*

Kronebusch: Yes, ONRR has all the information. Production is reported to ONRR at the facility measurement point, to a level of detail of every lease or agreement and well. That's where ONRR does some of its up front editing.

- It creates a reconciliation problem if ONRR reports at the lease level and industry reports at the project level. *Mr. Kronebusch: For reporting at the facility measurement point (FMP) level, there would need to be agreement on what the project is or how many FMPs come together. Some projects have multiple FMPs.*
- Is ONRR looking at both offshore and onshore production? *Mr. Kronebusch: Yes.*
- A ROW is in perpetuity, but the situation is not so clear with leases. USEITI should clarify this issue in the definitions, and not presume everyone knows these details.
 - *Mr. Kronebusch: With a lease, normally you have 10 years to produce and if you do, then it is in perpetuity, but if you don't it's not.*
 - *Industry representative: There is a primary term specified in the lease, and as production is maintained the lease will continue until production ceases.*
 - *Mr. Field: If USEITI goes to this level it sounds like there's a definitional issue of making sure people understand the details.*
- Could you clarify the sources of the data?
 - *Mr. Kronebusch: The source of the ONRR payments data is Form ONRR-2014, which covers oil and gas, NGLs, helium, and some others. For coal and solids it's Form ONRR-4053, the production and royalty report. For the items that cannot be paid on those two forms, ONRR used direct billing activities. Direct billing represents 1-2% of the total revenue.*
 - *Mr. Brannberg: For direct billing, also known as accounts receivables billing, there are a lot of rental payments, meaning that it involves a lot of contracts even if the total amount of revenue is relatively small. The rental payments are shown by lease.*
- What are the sources of revenues in the charts you showed? *Mr. Kronebusch: An estimated 80 is royalties. Bonuses and Rents are also a big source of revenue.*

Understanding unitization and communitization agreements:

- How much do unitization agreements affect accounting and how much are they a response to geology? It would be helpful to understand more about how unitization agreements relate to existing leases, and how many of them there are compared to unique leases. *Mr. Kronebusch: One difference is the complexity regarding reporting royalties. As far as ONRR is concerned, it doesn't matter whether it's a lease, an agreement, or anything else. For companies, it might be tougher because if it's an agreement they have to aggregate all their wells. Roughly half of what is reported to ONRR is from standalone leases and roughly half is from agreements. For auditors, it is important with agreements to make sure every lease is getting the correct allocation, because they have different*

royalty rates and you want to make sure the government gets every dollar it is due.

- What does it look like in practice for industry to report on communitization agreements versus unitization agreements? *Industry representative: With communitization agreements, they want to isolate well by well, so they can see the meter statement on the well head and know it is being reported for that communitization agreement. With a unit, companies take all the wells in that unit and accumulate them, typically designated to an FMP. Each lease will be given an allocation percentage of the unit, and companies will ignore the individual wells. It is easier to track the volume as they're commingled at the FMP.*
- For unitization agreements, the idea is that everyone agrees to an allocation for extraction that they agree is fair for a common reservoir, after a lot of analysis. They agree on an overall allocation but do not measure every well, and measure at the custody transfer point for the entire reservoir. For communitization agreements, they agree on every well. *Mr. Kronebusch: When royalties are reported for agreements, ONRR gets both the lease number and the agreement number. You need the lease number because that is how money gets distributed to the states, counties, or tribes.*

The Trade Secrets Act

- How do you determine if there is a Trade Secrets Act (TSA) problem and how is it handled in the reports?
 - *Mr. Kronebusch: The experts in the government determine what they feel could potentially cause competitive harm. If the government discloses numbers four or five months after the end of the year, and look at yearly not monthly revenues, some might conclude that there is minimal potential for competitive harm.*
 - *ONRR representative: When a request for information comes in, staff look into it to see if it might reach a threshold for causing competitive harm. It is easier for us to respond to these types of requests on a case-by-case basis than to report everything annually. The latter requires tremendous resources and time, although technically it is not difficult. The MSG should discuss this resource issue now and next year.*
- If you determine there's a Trade Secrets Act (TSA) problem, how is that reflected in the reports?
 - *Mr. Kronebusch: Currently in the data portal, there is a "W" for withheld, reported by the company. For oil and gas, if you go to the state website for a lease's production and have the lease number, you could theoretically figure out the price per barrel or mcf. For solid minerals it is stricter.*
 - *Industry representative: As long as there is a delay in the release of the information and it is broken down annually, not by month, there is less risk for companies in oil and gas. For hard rock it is different.*

- USEITI should be sure to explain to and educate the public about why there may be TSA issues with coal and other minerals, to avoid suspicion. USEITI should explain how unitization and communitization agreements work, and potentially even provide visualizations. It should look into creating an animated training module for the data portal.
 - *Mr. Kronebusch: ONRR already has reporter training two to three times a year and has many presentations on what these agreements are, and the life of a lease from cradle to grave. There are many kinds of educational materials like this that USEITI could put on the data portal.*
 - *ONRR representative: The MSG could add this as a special topic to next year's report. Linking the data portal to some of ONRR's training is a great idea. For example, ONRR has a new training system where it uses videos that the MSG could link into the data portal.*

Steps towards ONRR setting up a lease-level disclosures system:

- If ONRR decided to perform lease-level unilateral disclosure, would it just be a matter of feeding data into a spreadsheet once it is set up? *Mr. Kronebusch: ONRR has the information and could do it. ONRR had to do it for this presentation.*
- Based on information on bonuses and rents by lease, should USEITI present the revenues by lease? Would this be more meaningful than doing it by agreement?
 - *Mr. Kronebusch: Doing it by the lease only makes sense. Everyone can agree on what that number means, and it's simpler to track. With agreements it is difficult to keep track of all the layers.*
 - *ONRR representative: ONRR is committed to reporting out the leases at some point. ONRR wants to make it automated, so it does not need to create a spreadsheet each time. Otherwise, the data is out of date very quickly. ONRR has a system where you can send in a FOIA request and the staff will get back to you with the information. This works fairly well and if ONRR changes it, it wants to do it right.*
- From an industry perspective, if this is just unilateral disclosure of lease level data, then this could be a wonderful approach. But if USEITI tries to reconcile projects to the leases it could get messy, and industry likely will not report everything at the lease level under SEC 1504.
- From a stakeholder perspective, it would help to see what the leases look like without having to do a FOIA request, so you can know more about who the industry players are in your community. These developments are part of a wonderful story about something emerging from USEITI that is creating searchable, usable data that is making government more efficient.
- BOEM is already providing lease-level disclosure in the Outer Continental Shelf, so there is the beginning of a precedent for this in DOI.
- What is the source of the wait for ONRR to implement this? *ONRR representative: It is a matter of getting ONRR's technology to the point where it*

can do this in an automated fashion. It is a capacity challenge with respect to implementing a business intelligence unit.

- Does ONRR intend to unilaterally disclose lease level information where it can, except for when there is a TSA issue? *ONRR representative: Yes, ONRR is committed to doing that when it can do it in an automated fashion. If the MSG feels strongly it needs to do it in the interim using a spreadsheet to meet its mandate, then ONRR could do that but it may not make a lot of sense.*
- State and county level reporting seems of more interest to communities than lease level reporting, since leases cross several counties and likely will not mean a lot to people. Currently, the U.S. has reporting by state and county and should at least continue it at that level. However, both are useful and there are also reasons for the lease level data.

The EU system and EITI requirements:

- How does the EU manage this reporting issue? *Industry representative: The EU has a definition that is similar to the SEC definition. In the EU, projects are defined at the lease contractor agreement level, although there's a different term of art. There is the ability for some aggregation above the contract level, but the principle is close to a contract level.*
- What does the EITI require? *Industry representative: EITI says that once you start reporting at the project level though the SEC, you need to do that for EITI as well.*
- Does the EITI standard require reporting or reconciliation? *Industry representative: It requires reporting, but that's because project level reporting hasn't really started. Industry does not think it's practical to reconcile on a lease or project level. The government receipts aren't gathered on a project level. It would be difficult to package and report them.*
- USEITI should clarify that the EU rule is already in effect. Companies registered in the EU need to report revenue with respect to worldwide production including in the U.S. So companies there have already reported at the project level. And now SEC 1504 is being implemented.
- Is the expectation that industry will only release this data on an annual basis and USEITI would never go to real-time reporting, to avoid competitive harm? *ONRR representative: ONRR will be studying that issue as it implements this. ONRR sees some opportunities for real-time disclosure as information comes in, but it is not near to implementing that and it would need to consider how to put in appropriate protections.*
- Anything USEITI does that is common between the EU and the U.S. with respect to reporting will be helpful. Under EU Directive 10, it looks like the project is defined at the state level. Does anyone know how that will be implemented?
 - *Industry representative: It's subnational and project disclosure, but current reports may just have state level disclosures.*

- *Civil society representative: We have begun analyzing this issue and reaching out to industry colleagues to ask for the rationale for reporting at the state level. It is pending further analysis. In the EU Accounting and Transparency Directives "Project" is defined as "the operational activities that are governed by a single contract, license, lease, concession or similar legal agreements and form the basis for payment liabilities with a government". There is no reference made to a definition based on a political boundary, such as a state.*

J. Beneficial Ownership Roadmap

Jim Steward, Department of the Interior, Paul Bugala, American University, and Mr. Harrington presented on work by the Beneficial Ownership Workgroup and sought approval from the MSG of a Beneficial Ownership Roadmap. They noted that guidance from the International EITI Secretariat requires that implementing countries agree and publish roadmaps for their beneficial ownership disclosures by January 1, 2017. In addition, implementing countries must request, and companies must disclose, beneficial ownership information for inclusion in their EITI reports as of January 1, 2020.

The presenters commented on areas in which the U.S. addresses beneficial ownership issues currently, such as the U.S. government's efforts within the G8's Financial Action Task Force (FATF), and a new rule and proposed legislation coming from the U.S. Department of the Treasury. They also reviewed existing avenues for disclosure of information on beneficial ownership in the U.S., including information collected by states, the IRS, and the SEC. They suggested, however, that DOI does not collect beneficial ownership information, and noted that the Workgroup would benefit from developing a more effective understanding of DOI authority. Additional information can be found in Mr. Steward, Mr. Bugala, and Mr. Harrington's presentation slides, available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/beneficial_ownership_presentation_draft_10-17-16.pdf.

MSG members made the following comments and asked the following questions on the presentation; *direct responses are indicated in italics, with the speaker identified as appropriate:*

- Zorka Milin, Global Witness, suggested that the U.S. efforts are welcome but insufficient. She asked whether DOI would have authority to request information on beneficial ownership pursuant to its statutory requirement to determine interest in a lease, and suggested DOI might base its authority more broadly on issues related to conflict of interest or breaking the law. *Lance Wenger, DOI Office of the Solicitor, responded that DOI doesn't have a specific statute mandating it can gather this information. It does have a variety of different standards allowing it to get certain information, but the information it can gather under relevant statutes is limited by type of information and purpose. DOI is not authorized to gather more granular beneficial ownership information. DOI*

could, however, look into using the prohibitions on members of government owning leases in order to gather some additional information.

- Aaron Padilla, American Petroleum Institute, suggested that as the MSG considers next steps, a helpful frame could be to think of the problems that can arise from beneficial ownership, and which if any might be concerning in the U.S. He noted that, in the U.S., there are strong instruments preventing conflicts of interest in government, but there may be concerns about whether the public will get a good deal from the extraction of public lands and waters, or whether public policy will be used to enrich individuals.
- Isabel Munilla, Oxfam America, commented that regardless of the specific concerns in the U.S., the U.S. will need to meet the EITI requirement. The draft roadmap should map the existing system in the U.S. and how specifically it fits with the EITI requirements. This exercise might expose problems on coverage of companies, systems for collecting the data, and what governs public access.
- Mr. Dudis suggested that the group should look beyond just the federal context because the majority of all mineral extraction does not take place on federal land and because conflict of interest legislation in states and municipalities has important impacts. He also suggested that the MSG should look at how other countries have tried to define this issue, and be guided by a consideration of past scandals in the extractive industry that could have been prevented or exposed if additional beneficial ownership information had been available.
- Mr. Harrington noted that industry, and in particular large publicly held companies, are sympathetic to the beneficial ownership agenda. These companies face a big challenge with respect to due diligence in developing countries. The question is just mechanically how to implement it.
- Veronika Kohler, National Mining Association, expressed support for the idea of looking towards where the problem is and where the U.S. might still be vulnerable.
- Curtis Carlson, U.S. Department of the Treasury, noted that the beneficial ownership roadmap is focused on federally owned resources and there is no central database for privately owned resources and that in the U.S. there are a lot of privately owned resources.
- Mr. Bugala commented that there are examples in the U.S. where the creation of shell companies and the inability to identify beneficial owners has had detrimental effects. There are also examples of incorporated companies operating anonymously overseas.
- Mike Smith, Interstate Oil and Gas Compact Commission, commented that the U.S. is the only country in world that has private ownership of minerals, and that the judicial system is the most appropriate remedy to problems between private owners.

Mr. Field concluded the discussion by asking members if there were any objections to approving the draft roadmap and forwarding it to the EITI International Secretariat.

There were no objections and the MSG decided to submit the USEITI Beneficial Ownership Roadmap to the EITI International Secretariat.

- **Decision: The MSG decided to submit the USEITI Beneficial Ownership Roadmap to the EITI International Secretariat. The USEITI Secretariat shall transmit the document to the EITI International Secretariat on or before January 1, 2017.**

K. Mainstreaming

John Cassidy, IA team member from Deloitte, presented the IA's assessment of the feasibility of mainstreaming. He commented that mainstreaming is based on an idea that drafting an annual EITI report may not be the best use of time for every country; it might be preferable to automate the process and make it part of the everyday business of the government and companies. He clarified that mainstreaming does not change what the EITI standard requires; rather, it is another way of meeting the requirement.

Mr. Cassidy reviewed the various steps for mainstreaming, noted that from now into next year the MSG is focused on studying the feasibility of mainstreaming, reviewed next steps in the IA's feasibility study, reviewed current processes and procedures related to mainstreaming in the U.S., and suggested a number of potential areas for the U.S. to improve its EITI performance and potential for success with mainstreaming. Potential areas for improvement include doing more to showcase unilateral disclosure already occurring in the U.S., filling the gap on tax and project-level reporting through SEC 1504, and better explaining the audit requirements that currently exist. He concluded by noting that a decision on mainstreaming did not need to be made at the present MSG meeting. Additional information can be found in Mr. Steward and Mr. Cassidy's presentation slides, available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/mainstreaming_msg_vfinal.pdf.

MSG members made the following comments and asked the following questions on the presentation; *direct responses are indicated in italics, with the speaker identified as appropriate:*

- I thought the MSG had agreed to conduct a pre-feasibility study, not a feasibility study.
 - *Mr. Gould: The MSG did discuss a pre-feasibility study. ONRR opted to have the IA start on a full feasibility study in order to keep moving forward if USEITI is to pursue mainstreaming. If there are concerns about this, the MSG can discuss this further.*
 - *IA team member: Upon review, the IA determined that the differences between a pre-feasibility study and a full feasibility study were minimal.*
- You mentioned the politics have changed on Dodd Frank. How so? *IA team member: There is now increased uncertainty on what might happen. Dodd Frank would play an important role if mainstreaming goes forward. The IA's view is*

mainstreaming would be a multi-year process, and in many ways would follow a parallel path with SEC 1504.

- What EITI documents authorize the criteria that the data must be comprehensive, up-to-date, and reliable, and are they really an adequate scoping for whether government data is helpful? *IA team member: The comprehensive, reliable and up-to-date standard is from the validation guidelines document. Two additional criteria might be data quality and transparency.*
- Commenters expressed diverse opinions on the significance of corporate income tax reporting and reconciliation. One suggested that what matters is that the USEITI numbers are adding up in reconciliation, and the taxes would therefore add up as well. Another commented that even if the Treasury Department has excellent systems, the U.S. is still falling short on making tax information publicly available. Another noted that it would be helpful for civil society to indicate if its priority right now is EITI compliance or tax reporting, so that USEITI can prioritize its efforts. *Mr. Cassidy noted that the IA will set up stakeholder interviews on the tax issue, which will likely happen between now and February. Mr. Mennel suggested there is an argument that what is required by 1504 is sufficient for mainstreaming.*
- There were various perspectives on how much of a “deal breaker” the tax issue will be for the U.S. One suggested it would definitely be a problem with the EITI International Board. Another noted that ONRR worked closely with the SEC to use USEITI as a means for compliance with the 1504 standard and suggested that will bode very well for mainstreaming. *An IA team member commented that it is impossible to know whether tax reporting is a deal breaker at this time. No other feasibility study has been conducted and the only other country going forward on mainstreaming is Norway. The language in the standard says “all transactions,” which implies all companies. However, it is reasonable to assume that the board will draw the line somewhere short of “all transactions” for the sake of practicality but USEITI will need to make a case for where the line should be.*
- USEITI might be able to look at mainstreaming as an opportunity help maintain momentum on government efficiency.

L. Validation Discussion

Mr. Gould initiated the conversation on validation by noting that the current date for the U.S. for validation is April 2018. He suggested the MSG enter the conversation on validation believing that the U.S. will be found compliant but also recognizing that the U.S. probably cannot be found compliant within the existing standard. There will be a global discussion on the standard that the U.S. can influence.

After these initial comments, Ms. Wilson presented an overview of validation. She reviewed the purposes of validation, steps in the validation process, key areas of validation requirements, and the core requirements any country must meet to avoid suspension. She also reviewed a draft pre-assessment for USEITI, estimating the level of progress by the U.S. on various EITI requirements. The draft pre-assessment included

the following suggested findings, using the color scheme of the International Secretariat to indicate the degree of progress:

- Satisfactory progress (marked green) on relevant requirements related to MSG oversight, licenses and contracts, monitoring production, revenue allocation, and socioeconomic contribution.
- Meaningful progress but still not satisfactory (marked yellow) on some revenue collection requirements.
- Progress beyond what is required (marked blue) on public debate and data accessibility.

Additional information and the detailed suggested findings can be found in Ms. Wilson's presentation slides, available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/validation_overview.pdf.

MSG members made the following comments and asked the following questions on the presentation, organized by issue; *direct responses are indicated in italics, with the speaker identified as appropriate.*

General comments:

- Under the current validation system most countries will fail, so there will need to be a conversation about flexibility for countries that are doing good things but cannot fully comply with the standard. The compliance challenges the U.S. is facing are not unique.
- There are opportunities within the standard, such as mainstreaming and adapted implementation, that the U.S. should take advantage of to maximize its chances. The U.S. does not have risks in areas like civic space, and it is making many disclosures that are exceeding the standard, which it can highlight. It can also be specific about areas where it has risks, like participation level of reporting and corporate income tax reporting.
- USEITI should not try to define down the standard in order to make it easier to comply. EITI was created to give people insight into where money was coming from in the extractive sector. The fact that USEITI not been able to do so speaks to some of the governance difficulties and corruption in the U.S.

Direct subnational payments:

- Direct subnational payments is yellow but if the USEITI Secretariat were to make it green the board would likely agree. *Ms. Wilson: It indicates USEITI has pursued adapted implementation.*

Data timeliness:

- Data timeliness should be blue because the requirement is no more than two years, and in the current USEITI report it is one year. *Ms. Wilson: That is a good point. The MSG should consider changing it.*

Data comprehensiveness

- Some commenters suggested that data comprehensiveness should be green instead of yellow because it is USEITI's fundamental program. Others suggested yellow is appropriate because many companies have not participated in revenue reporting. These commenters noted that the U.S. has gone above and beyond in some areas of data comprehensiveness (like unilateral disclosures) but is behind in others (like tax reporting), so it evens out to yellow. *Ms. Wilson explained that draft pre-assessment coded this issue as yellow because the government is prohibited from full disclosure of tax revenue and company reporting is voluntary. While Dodd-Frank Section 1504 may improve things, it is not yet implemented so USEITI cannot take credit for it. In addition, government reporting specifically is marked blue, but the overall requirement is marked yellow.*
- Some of the mining companies that are not in USEITI's current universe have shown greater willingness to disclose their taxes. If USEITI expands the universe of its companies, a side effect might be an improvement in USEITI performance on tax reporting.

Data quality

- The data quality requirement looks at the U.S.' audit and assurance practices and how USEITI ensures the quality of the government's unilateral data reporting. USEITI has done a great job of this in the 2016 Report and it should be green.

Disaggregation

- MSG members expressed various opinions on disaggregation. One highlighted the impact of the fact that the U.S. decided not to disclose project level revenues, while another noted that a U.S. regulator has made a commitment to project level reporting using a definition consistent with the global standard. One suggested that disaggregation should be marked "N/A" instead of yellow, because project-level data is not relevant to implementation of the standard, while another suggested it should be green because USEITI has disaggregated by company and commodity and that is the definition of disaggregation until SEC 1504 comes into effect. Another suggested that, regardless of the coding, the MSG should note that it does not think it will be a material issue for validation because the board is waiting until the EU and SEC rules are in place before enforcing the standard.
- In response to a question about whether USEITI needs company level and lease level data for the 2017 Report to say that it has met the disaggregation standard, *an IA representative noted that the main requirement is consistency with the SEC rule when it comes into effect. An ONRR representative further commented that Dodd Frank and the SEC rulemaking allow the U.S. to publish data at company levels but that the MSG can still continue discussions on project-level reporting.*

The EITI International Board will decide if the USEITI MSG's definition of success complies with the guidelines.

- Some comments focused on strategies for meeting the requirement even before SEC 1504 comes into effect, for example by ONRR reporting lease level data. One commenter noted that the Section 1504 law is in place and in effect, which means companies are required to be implementing the law even though first reports won't be out until 2018-19.

Documentation

- The MSG has been good about documenting recommendations from the IA and the associated MSG discussions. The requirement is that the MSG must discuss these issues and document how and why it has decided to address them, and the MSG in fact does that in its meetings.

Nature of the assessment

- Procedurally, what does the MSG need to do? *DOI and ONRR representatives and Mr. Field: The USEITI Secretariat will conduct an initial desk audit and MSG representatives can discuss it with them before the MSG submits it to EITI International. For the International Board to accept the application, the USEITI MSG must reach consensus, but there may be ways to finesse the issue of consensus. Then the International Board will make the final decision.*
- It is in the MSG's best interests to be in full agreement on the scoring for each requirement. It would a powerful statement to send to the Board to say that the U.S. is in complete compliance with the standard and that the full MSG agrees with this self-assessment.
- Can the U.S. still be validated if it fails on one issue? *ONRR and DOI representatives: Overall it is a broad grading system, except for the four requirements that EITI countries cannot fail: government engagement, company engagement, civil society engagement, and timely EITI reporting. The Board will make a determination on every individual requirement then look at all of those assessments cumulatively. They will look at USEITI's implementation in the context of the U.S. and the challenges USEITI has before it.*

Next, Ms. Wilson discussed the validation timeline and consequences of various validation scenarios, depending on the board's assessment of overall progress. She noted that after the first validation, countries have only one additional chance to achieve compliance 3 to 18 months later. If a country is found compliant, it will be reevaluated in three years. Details can be found on Ms. Wilson's presentation slides, as noted above. Participants offered the following comments and questions:

- The U.S. should be light green overall, but the EITI Board seems to believe that the U.S. is orange, indicating inadequate progress, primarily due to the tax issue. The USEITI Secretariat does not think this is a fair assessment. There are other countries considered green that have just as many issues as the U.S. To address

this issue the MSG should come to consensus that the U.S. is light green, and present that to the Board as a unified MSG on April 1, 2018.

- Participants differed in their predictions for how the Board is likely to react to the U.S. candidacy. Some suggested the Board may change how it thinks about validation issues after considering other countries because it will want to avoid suspending a large number of its members. Others suggested that the most essential part of EITI is transparency to citizens on revenues from the extractive sector, and if USEITI cannot provide that through tax information the Board will likely see it as a big problem. One participant suggested that in light of this potential outcome, MSG members should do everything they can to influence the regulatory process in the U.S. in a positive direction. One other participant questioned whether the U.S. will be compared to other wealthy countries or to poor countries that have severe capacity problems.
- Regarding the timing, the Board is currently way behind its validation schedule. It is unlikely that 18 months will actually be the maximum amount of time countries will receive until their second validation. For the U.S., the second validation will be at the end of 2020 at the earliest. It is likely that the regulatory situation in the U.S. will be more settled in time for the U.S. to survive the validation process.
- One participant suggested that USEITI could overcome challenges to validation if companies represented in the MSG agreed to disclose their taxes. Other participants noted that this issue is outside the control of MSG industry representatives, who have tried hard to educate their industry colleagues and leaders. Because corporate decisions on whether to disclose taxes are often made at the Board of Directors level, it is very difficult to get them to pay attention to EITI.

Mr. Gould outlined next steps on validation for USEITI, noting that the Implementation Subcommittee will be working on developing strong documentation to support USEITI's application, especially in the more challenging areas. Mr. Mussenden suggested it might be helpful for Implementation Subcommittee workgroups to explore possible areas of agreement on which requirements could be classified as "green" versus "yellow." Ms. Wilson suggested the MSG should be prepared well before the April 1, 2018 deadline with its validation pre-assessment.

IV. Public Comments

There was one public comment on Day 1 and a second on Day 2. On Day 1, Henry Salisman from the Navajo Nation commented that the data portal looks beautiful and thanked the MSG for its work. On Day 2, Henry Salisman, from a Navajo Nation thanked the MSG for its work. He noted he is a Native American citizen interested in the policy. In listening to the conversation, he heard lots of issues related to transparency, beneficial ownership, and the subnational status of Native American tribes, and he appreciated seeing Native American representatives on the MSG.

V. Wrap Up / Closing

Chris Mentasti, USEITI Secretariat, reviewed the decisions made during the meeting. Mr. Field reviewed the action items and noted that they would be distributed to the group.

Mr. Mussenden, DOI and Acting DFO, closed the meeting with some final words. He noted that he had an incredible experience working with the MSG, and it had been wonderful to observe the evolution of the USEITI project. He suggested that USEITI cannot move forward unless there is consensus, and he was heartened and encouraged by the group's ability to work together. He praised the MSG members, wished them well, and thanked them for the opportunity to collaborate with them. Mr. Mussenden adjourned the meeting at 4:00 pm.

VI. Meeting Participants

A. Participating Primary Committee Members

Civil Society

Danielle Brian, Project on Government Oversight, USEITI MSG Advisory Committee Co-Chair

Paul Bugala, American University

Lynda Farrell, Pipeline Safety Coalition

Mike Levine, Oceana

Veronica Slajer, North Star Group

Betsy Taylor, Virginia Polytechnic Institute and State University

Government

Curtis Carlson, Department of the Treasury

Greg Gould, Department of the Interior, USEITI MSG Advisory Committee Co-Chair

Mike Matthews, State of Wyoming - Department of Audit/Mineral Audit Division

Mike Smith, Interstate Oil and Gas Compact Commission

Industry

Stella Alvarado, Anadarko Petroleum

Phillip Denning, Shell Oil Company

Susan Ginsberg, Independent Petroleum Association of America

John Harrington, ExxonMobil

Veronika Kohler, National Mining Association, USEITI MSG Advisory Committee Co-Chair

Johanna Nesseth, Chevron

Michael Blank, Peabody Energy

B. Committee Alternates in Attendance

Civil Society

Daniel Dudis, Public Citizen

Zorka Milin, Global Witness

Jana Morgan, Publish What You Pay
Isabel Munilla, Oxfam America

Government

Jim Steward, Department of the Interior

Industry

Aaron Padilla, American Petroleum Institute
David Romig, Freeport-McMoRan Oil & Gas
Edwin Mongan, BHP Billiton Petroleum

C. Members of the Independent Administrator Team in Attendance

John Cassidy, Deloitte & Touche
Luke Hawbaker, Deloitte & Touche
Alex Klepacz, Deloitte & Touche
John Mennel, Deloitte & Touche
Sarah Platts, Deloitte & Touche
Kent Schultz, Deloitte & Touche

D. Government and Members of the Public in Attendance

Kimbra Davis, Office of Natural Resources Revenue
Troy Dopke, Department of Interior Office of Inspector General
Jerry Gidner, Office of Natural Resources Revenue
Jennifer Goldblatt, Office of Natural Resources Revenue
Mary Beth Goodman, National Security Council
Emily Hague, American Petroleum Institute
Michele Hertzfeld, GSA 18F
Sally Jewell, Secretary of the Interior
Corey Mahoney, GSA 18F
Tim Musal, Department of Interior Office of Inspector General
Paul Mussenden, Department of Interior
Charles Norfleet, Bureau of Ocean Energy Management
Jodie Peterson, Office of Natural Resources Revenue
Kathleen Richardson, Department of Interior Office of Inspector General
Henry Salisman, Navajo Nation
Mia Steinle, Project on Government Oversight
Alexandria Turner, Office of Natural Resources Revenue
Mary Warlick, Bureau of Energy Resources, U.S. Department of State
Lance Wenger, Department of the Interior Office of the Solicitor
Brenda Young, Office of Natural Resources Revenue

E. Facilitation Team

Patrick Field, Consensus Building Institute
Toby Berkman, Consensus Building Institute

F. DOI MSG Support Team

Chris Mentasti, USEITI Secretariat
Judith Wilson, USEITI Secretariat
Kim Oliver, USEITI Secretariat
Nathan Brannberg, Office of Natural Resources Revenue
Robert Kronebusch, Office of Natural Resources Revenue
Treci Johnson, Office of Natural Resources Revenue

VII. Documents Distributed

- MSG Agenda ([PDF](#))
- June MSG Meeting Summary ([PDF](#))
- Executive Summary and Reconciliation Report ([PDF](#))
- MSG Endorsement of Open Data ([PDF](#))
- Beneficial Ownership Roadmap ([PDF](#))
 - Guidance Note 22 ([PDF](#))
- Request for Extension of Adapted Implementation ([PDF](#))
- USEITI Work Plan Narrative ([PDF](#))
- USEITI Work Plan Spreadsheet ([PDF](#))
- USEITI Reporting Decision Matrix ([PDF](#))

VIII. Transcript of Remarks by Secretary Jewell, November 16, 2016

Thank you all and thanks to all of you in the multi-stakeholder group for your hard work on this. It makes me very proud of our country and what we're able to do when we work together. I'm very proud of the work you do. And a special shout out to the Co-chairs, Veronika Kohler and Danielle Brian. Thank you very much. And of course our team at Interior. Paul [Mussenden] has been the champion for this and enlightened me on the whole process when I first got here, and Greg Gould. I'm really proud of the work that they've done and the work that all of you have done, bringing the perspectives of industry, the broad society, and government together.

I had an opportunity to talk with the governor of Alaska, and I appreciate their efforts joining this, and the governor of Wyoming. I was in Mexico not too long ago and urged Mexico to step up as an EITI country. They lose somewhere on the order 30% of their nation's resources between when it is produced and when it's sold and accounted for. There are a whole variety of reasons for that. But the purpose is to address the challenges of resource rich countries where it doesn't benefit all people.

I've played on the website and it's terrific. It's not something I might do for recreation, but it's great and it's making it easier to use. That's really important. I want to thank you

for the work you do and how proud you make me. Few people understand how resource extraction on public lands works in the country.

We just did an event earlier today with Blackfeet tribal leadership — we had them all in my office — and Devon Energy. Devon was voluntarily relinquishing its leases in the Badger-Two Medicine area in Montana. This is a sacred site to the Blackfeet Nation. It's an area bordering Glacier National Park.

There's growing awareness that places are appropriate for development and some places are too special for development. EITI helps shine a spotlight on where development is happening, how important it is to the economy and our country to power our future, and also that it needs to be done in the right ways in the right places. You're helping shine a spotlight and put the data in a much more usable format than it would be available otherwise. I think that's really helpful.

The other thing I'd say is it was really chatty when I walked in here. I think that's terrific. Because we might be considered in some cases to be at opposite sides of issues, but when we come together as human beings with a common interest and love of our country, a common interest in economic development, and environmental protection. And if you're a company extracting resources, you want people to know how much you're contributing to the Treasury of the United States. This is exactly what you're doing. We shouldn't be sneaking around and we are not sneaking around.

From the first iteration of the website to where we are now it keeps getting easier to use, and more fun for recreational use. What you're also doing is providing a template, open source, that other people will use. The richest country in the world should be doing that. As the only G7 nation involved in this we are really putting ourselves out there. Open government data is really important.

I was in California for other business. I spent time visiting Google. Google has taken landsat data provided by USGS — what our nation's lands looked like since the satellite functions of 1970s. It's taken all of those magnetic tapes and put them in petabytes of machine-readable format. You can now go to Google Earth and look at a time lapse since the 70s, and see the changes in the landscape, see what's happened to reservoirs, see what's happened to development, see the impact that we have had, see what happened from Superstorm Sandy — it's very obvious when that came through. Open data, machine-readable data, accessible data, in a way that puts it in the hands of ordinary people, helps ordinary people make extraordinary decisions about not just the here but about future generations. That's what you've done with EITI. I want to congratulate you. Now we need to just get certified as an EITI country and then we can take what we've done to the rest of the world as we're already encouraging countries to do. I'm very proud of the work you do. Thank you.

To my colleagues in the Department of Interior who are going to be looking at a transition in political leadership but not a transition of career staff, the importance of staying the course on something like this I can't overstate enough. Those of you in civil society and the industry sectors, and other stakeholders, put yourself in the seat of our career staff right now who have no idea who they're going to be working for. It has got to be really difficult. Things like this help move our nation forward and there's no reason we should go backwards, and they won't because of the work you're doing in this multi-stakeholder group.

A profound thank you to all of you. This is will be my last meeting with all of you, I can guarantee that — unless I become a stakeholder, but I'll take a long break before I do that.

It has been a privilege and a pleasure to get to know your work, to meet with you in a setting like this, and see the contributions you've made that will make a difference not just now but for many generations to come. Thank you and congratulations.

USEITI notables for 1/24/2017/ ASPMB Meeting

1) USEITI MSG Meeting: ONRR will host the first USEITI MSG meeting of 2017 on February 1 (10 am – 3:30 pm and 2 (9 am – 1 pm) in the MIB, South Penthouse. The public meeting agenda and supporting materials are posted on the MSG website at <https://www.doi.gov/eiti/faca/meetings>. The MSG will: approve the November Meeting Minutes; receive an update from the Independent Administrator on the Mainstreaming Feasibility Report; receive updates from the three Subcommittees (Implementation, Communications and Outreach and State and Tribal Opt-in; discuss potential improvements to revenue and USEITI reconciliation procedures; and approve the three new additions to the contextual narrative for the 2017 USEITI Annual Report.

2) EITI Board Meeting No. 36: The 36th Board meeting will be held March 8-9, 2017 in Bogota, Colombia. Some likely items of significance include the Implementation Committee considerations of the validation safeguards and possible recommendation to the Board; compliance and instances of non-compliance with the beneficial ownership roadmaps; further action on supporting mainstreaming by adapting and refining existing support to implementing countries; and pending validations and Candidacy applications. USEITI submitted to the Board in December 2016, the MSG approved USEITI 2017 Annual Work, the Beneficial Ownership Roadmap, and the USEITI Request to Extend Partial Adapted Implementation for USEITI Subnational Revenues. We expect feedback / approvals from the Board on our submissions. In addition, the USEITI Secretariat submitted to the EITI Secretariat in November 2016, an informal validation self-assessment. We expect discussion and feedback from the Secretariat at the Board meeting.

INFORMATION MEMORANDUM FOR THE ASSISTANT SECRETARY

FROM: Greg Gould, Director, Office of Natural Resources Revenue Management

SUBJECT: USEITI – Options for Implementing the 2016 Extractive Industries Transparency Initiative (EITI) Standard

DATE: May 11, 2017

ISSUE

The Department of the Interior, which leads U.S. implementation of the EITI Standard, began in the fall of 2011 an aggressive timeline to establish a multi-stakeholder group (MSG); achieve Candidate Country status in March 2014; and ultimately begin the validation process by April 1, 2018. However, despite having met or exceeded 22 of 26 individual elements of the Standard (8 of the 9 requirements), at the conclusion of the validation process, the USEITI will not be found in compliance with the EITI Standard and is thus likely to be suspended from the initiative. This paper presents options for avoiding such an outcome, improving our management of the USEITI process, and maintaining DOI's commitment to transparent, collaborative and participatory government.

BACKGROUND

Prior to DOI taking the lead in 2011 to implement EITI in the United States, the Department of State (State) strongly supported EITI and coordinated U.S. participation in the global effort as a supporting country. Since EITI's inception in 2002, State has played a key role in shaping the EITI into the global standard for revenue transparency. Through its representation of the United State as a supporting country on the EITI Board and participation in the Finance and Governance and Oversight Committees, State works to clarify, interpret, and promote the rules of the EITI Standard, including by helping to draft guidance documents on how to assess country compliance. U.S. leadership has played a crucial role in the endorsement of the EITI by the G-7, the G-20, and the United Nations Security Council.

The United States Agency for International Development (USAID) has provided significant support to EITI both at the multilateral level and through direct bilateral support for implementation through USAID Missions around the world. USAID has provided over \$30 million in assistance for EITI implementation, peer exchange, and research.

Domestic implementation of EITI is subject to existing laws and regulations. For example, the Trade Secrets Act and the Federal Oil and Gas Royalty Management Act (FOGRMA) of 1982, prohibit the Federal government from releasing company pricing information and Federal employees are subject to criminal penalties if they violate these laws. Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is

applicable. The IRC imposes civil and criminal penalties for violations of the disclosure prohibitions.

INTRODUCTION

The Extractive Industries Transparency Initiative, or EITI, is a voluntary, global effort designed to strengthen accountability and public trust for the revenues paid and received for a country's oil, gas, and mineral resources. EITI brings together a coalition of government, companies, and civil society, or Multi-stakeholder Groups (MSG's), to strengthen government and company systems, inform public debate, and promote understanding.

The U.S. government successfully completed the initial requirements to join EITI as a candidate country when the EITI International Board accepted our candidacy application in March 2014. Key successes to date include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency.

In 2016, the Department of the Interior (the lead federal agency) entered a new phase in implementing EITI. The EITI International Board revised the EITI Standard in February 2016, to include requirements for disclosure of beneficial owners of extractive companies and to provide the opportunity to "mainstream" revenue data by governments and companies in lieu of an independent reconciliation of reported revenues. The work of the USEITI MSG (39 members and alternates from federal, state, and tribal governments, civil society and industry) is to ensure that the USEITI framework is tailored to U.S. laws, regulations, and culture, and that it is implementable by government and industry.

The USEITI primary challenges for compliance are: corporate income tax reporting; project-level reporting and beneficial owner disclosure of the corporate entity(ies) that bid for, operate or invest in extractive assets. Unlike other implementing countries, company reporting in the United States is entirely voluntary. Despite current setbacks there is a path forward for U.S. commitment to EITI -- implementing with the expectation of achieving compliance and sustaining our role in the global Open Government Partnership. The path forward parallels the Department's commitment to reforming revenue management and royalty collections. This memorandum addresses considerations of this phase of USEITI implementation and provides options to resolve implementing challenges in successfully achieving compliance with the EITI standard.

I. AREAS FOR CONSIDERATION

Implementing EITI will continue to improve government revenue transparency in the United States and continue to serve as an example internationally. The primary areas of consideration for 2017 and leading to the validation on April 1, 2018, are multi-agency involvement, governance of the USEITI multi-stakeholder group, institutionalizing the principles of EITI in

the Department of the Interior and mainstreaming government data. In order to recommend appropriate options for a government position, this paper takes into account the U.S. legal context, legal constraints, feasibility, and the international EITI requirements.

MULTI-AGENCY INVOLVEMENT

In July 2012, the Department of the Interior established the USEITI Sub-Interagency Policy Committee (Sub-IPC) to discuss the status of implementation of the EITI Standard and make decisions requiring interagency input. The Sub-IPC consisted of the following agencies: Office of Management and Budget (OMB); National Security Council (NSC); and Office of Science and Technology Policy (OSTP); as well as the Departments of State, Treasury, and Energy. The Sub-IPC was led by the National Security Council. The National Security Council, Securities Exchange Commission, Treasury Department and Department of the Interior are all critical to the ultimate success of the U.S. implementation of the EITI Standard.

On June 27, 2016 the Securities and Exchange Commission (SEC) issued a final rule, Disclosure of Payments by Resource Extraction Issuers, implementing section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203, July 21, 2010), which required certain companies to report to the SEC their payments related to extractive industries activities. The payments that issuers were to report under the rule included taxes, royalties, fees, production entitlements, bonuses, social responsibility payments (if required by law or contract), dividends, payments for infrastructure improvements. In July 2016, the SEC issued an order recognizing the resource extraction payment disclosure requirements of the European Union, Canada and the U.S. Extractive Industries Transparency Initiative as substantially similar to the requirements of Rule 13q-1 under the Securities Exchange Act of 1934. The SEC requirements were both broader and narrower than EITI requirements. EITI does not require reporting of payments for social responsibility, infrastructure improvements or dividends, but does require reporting of fines or payments, which are not within in the scope of Dodd-Frank or the SEC rule. Congress disapproved the SEC regulations in February 2017; however, the Act still requires the SEC to promulgate regulations to implement section 1504 of the Act.

The Internal Revenue Service (IRS) is the primary Government body in charge of managing all tax payments, including payment of corporate income tax, which falls under the purview of USEITI. In the United States there are two key sources of publicly available information about federal income taxes for the extractive industries: the government and the filings of companies that are publicly listed. As mandated by the Revenue Act of 1916, the IRS publishes statistics related to “the operations of the internal revenue laws” as they affect individuals, corporations, and various other entities. The IRS Statistics of Income (SOI) program is responsible for executing this function by collecting, processing, and presenting this data, and then sharing information about how the tax system works with other government agencies and the general public.

The Department of the Treasury, in May 2016, issued a customer due diligence rule (CDD Rule), which streamlines and clarifies several components of customer due diligence under the Bank Secrecy Act to promote consistency and added a key new requirement for U.S. financial institutions to know the real people who own, control, and profit from companies (the “beneficial

owners”)—and verify their identities. U.S. law requires all legal entities that open a U.S. bank account or have a Federal or State tax filing requirement obtain an EIN for tax administration purposes. Further, an entity is required to obtain an EIN if it has employees, or is required to file any documents including tax returns, with the IRS. An EIN (also known as a taxpayer identification number) is also required, under the Banking Secrecy Act, to open a bank account. Section 13(d) of the Securities Exchange Act of 1934 requires any person or group that acquires more than five percent “beneficial ownership” of public company equity securities to disclose its position within 10 days of crossing the threshold. There is no institutional framework for public disclosure of beneficial ownership disclosure information in the United States as required by the EITI Standard. There is, however, a substantial and growing framework for the collection of beneficial ownership information from both public and private companies operating in the U.S.

The Department of the Interior maintains the primary role in the U.S. Government for the governance of energy and non-energy mineral resources. Several different Bureaus within the Department of the Interior collect non-tax payments depending on the type of payment, the location of exploration and production, and the type of resource being extracted. These include: Interior’s Office of Natural Resources Revenue, the Bureau of Land Management, and the Office of Surface Mining Reclamation and Enforcement. The Office of Natural Resources Revenue manages and ensures full payment of revenues owed for the development of the nation’s energy and natural resources on the Outer Continental Shelf and onshore Federal and Indian lands.

MULTISTAKEHOLDER COMMITTEE MANAGEMENT

In 2012, the Department of the Interior conducted a series of stakeholder engagements to ascertain the optimal course for USEITI multi-stakeholder committee management. The options included a Federal Operating Committee, an existing FACA Committee, Non-Federal Entity and a New FACA Committee.

Federal Operating Committees are established by Congress through legislation. An operating committee is established to perform primarily ‘operational as opposed to ‘advisory’ functions. While providing legitimacy and decision-making authority, this legislative option does not allow for expediency. An Existing FACA Committee would require the Charter to address the scope and the Secretary to appoint new members. A Non-Federal Entity, a non-governmental organization, such as a 501(c)(3) allows the two non-governmental sectors (industry and civil society) to come together to create a committee or group, and then seek participation by the federal government in that entity; or the federal government could use a contract, grant, or cooperative agreement to ask a separate, “third-party” entity to convene and/or operate the MSG as a non-Federal entity. In this case, there does not appear to be enough certainty around the mechanism and the authority for creation, thus drawing into question the legitimacy of such a group. Additionally, creating a 501(c)(3) would require an investment of time and money that does not support expediency and sustainability. A non-federal entity would require recognition by the Federal government to bestow decision-making authority and most likely, any changes in federal rules or regulations proposed by the MSG would trigger FACA requirements. Finally, a new FACA Committee could be convened by either the Department of the Interior or the Office of President. Because a FACA Committee only provides advice to the federal government, and the federal government appoints its members, there is concern that a FACA might not meet the

EITI expectation of collaboration, sector self-selection, and responsibility for implementing EITI.

After careful consideration of input from the public at large and stakeholders, the FACA committee option provides the legitimacy, expediency, and sustainability required to ensure the successful implementation of USEITI. In 2012, with assurances from the government, the FACA committee should be able to fulfill the initial functions of an MSG, to develop a fully-costed work plan to design and implement the USEITI framework and obtain EITI compliance, within the spirit and framework of the EITI requirements. The Government noted at the time, that making a decision to set-up the initial U.S. MSG as a FACA did not mean the U.S. MSG would remain so as USEITI implementation moved forward. The MSG, as part of its deliberations, could decide to seek legislation or another option to reform the USEITI MSG.

2017 CHALLENGES TO IMPLEMENTING EITI REQUIREMENTS

The USEITI primary challenges for 2017 are: corporate income tax reporting (Congressionally disapproved Dodd-Frank §1504 regulations required a resource extraction issuer to disclose taxes); project-level reporting (Congressionally disapproved Dodd-Frank §1504 regulations defined project as operational activities that are governed by a single contract, license, lease, concession, or similar legal agreement, which form the basis for payment liabilities with a government); mainstreaming reporting requirements; and beneficial owner disclosure (of the corporate entity(ies) that bid for, operate or invest in extractive assets). Unlike other implementing countries, company reporting in the U.S. is entirely voluntary.

The EITI Standard requires reporting on “profits taxes,” or taxes on income, where material. Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is applicable. The MSG requested companies to voluntarily report the sum of all federal corporate income tax payments and encouraged reconciliation. For the 2015 USEITI Report, 12 out of 41 applicable companies reported \$190 million in corporate income taxes and in the 2016 USEITI Report, 12 out of 38 applicable companies reported -\$308 million in corporate income taxes.

The EITI Standard states that the MSG is required to agree on the level of disaggregation for publishing data, that EITI data must be presented by individual company, government entity, and revenue stream, and requires that reporting at project level. The standard does not provide a specific definition of “project,” but states it should be consistent with the SEC rules and European Union laws. Section 1504 of the Dodd-Frank Act requires extractive industries companies registered with the SEC to separately disclose information about payments to governments around the world in an interactive data format.

Options for Implementing the 2016 EITI Standard:

1) In 2017, the United States seeks adapted implementation of the company reporting requirements required under the 2010 Dodd Frank Act until such time as the Securities Exchange Commission promulgates regulations under the Act. The request for adapted implementation,

made to the EITI International Board, acknowledges the Congressional disapproval of the Dodd Frank §1504 SEC Regulations. The Board will consider this option in light of MSG support and decide whether to approve adapted implementation. This option requires USEITI MSG support and there is no change to the USEITI MSG Federal Advisory Committee structure or the governance of domestic implementation. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

2) The United States requests the EITI International Board to approve an implementation ‘pause’ for one year combined with a one-year extension to the April 1, 2018, timeframe for initiating validation. We would argue that the “pause” and extension would allow the new Administration time to place senior leadership critical to decision making in all the key Agencies (i.e., DOI, State, Treasury). This option requires the USEITI MSG support and there is no change to the USEITI MSG Federal Advisory Committee or the governance of domestic implementation. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

3) The USEITI MSG is reformulated in a streamlined fashion. The MSG remains a FACA committee that advises the Secretary of the Interior and also remains consistent with the EITI principles of governance. Having demonstrated significant accomplishments over the past five years and relying on the willingness of many dedicated members of the MSG to continue to volunteer their time, this option would reduce the burden of participation on all sectors. This option requires USEITI MSG support. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

4) The lead for domestic implementation of the EITI Standard shifts to the White House, National Security Council, with Interior, Treasury and the SEC partnering in implementation. The USEITI MSG is reformulated in a streamlined fashion, incorporating option 3 above. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

5) The U.S. government unilaterally decides to no longer participate and withdraws as an implementing country. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

RECOMMENDATION:

Despite current setbacks there is a path forward for: U.S. commitment to EITI; implementing EITI with the expectation of achieving compliance; and sustaining our role in the global Open Government Partnership.

We recommend Option 4 as the most feasible path forward to achieve compliance with the Standard. It will be necessary to have full support from State, Treasury, SEC and the National Security Council to implement this option. Interior has lead domestic implementation to date yet only has jurisdiction with respect to governance associated with natural resource extraction on federal and Indian Lands and associated non-tax revenue management. In light of the April 3, 2017, Federal Register notice of the Secretary of the Interior establishing and seeking

nominations for the Royalty Policy Committee (RPC or Committee) there may be a path forward for the streamlined MSG approach. The Committee will advise on current and emerging issues related to the determination of fair market value, and the collection of revenue from energy and mineral resources on Federal and Indian lands. The Committee also will advise on the potential impacts of proposed policies and regulations related to revenue collection from such development, including whether a need exists for regulatory reform. We believe the purpose of the Committee aligns with principles of EITI that address the valuable role of stakeholders in seeking solutions to issues in the area of natural resource extraction and revenue management. A streamlined USEITI MSG can be a significant source of support to the RPC in their discussions and deliberations

In addition to Option 4 above, we also recommend institutionalizing appropriate EITI requirements within the Office of Natural Resources Revenue. The path forward parallels the Department's commitment to reforming revenue management and royalty collections. We recognize that public understanding of government revenues and expenditures over time informs public debate and informs choice of appropriate and realistic options for sustainable energy development. Maintaining the USEITI data portal and integrating even more government revenue data and information is vital to support public policy and is fundamental to the Royalty Policy Committee discussions and deliberations. We also remain committed to encouraging high standards of transparency and accountability to the public for our mission and in our everyday operations.

We also welcome the idea of mainstreamed EITI non-tax revenue disclosures in lieu of company reporting and Independent Administrator reconciliation. The rationale for the 2016 refinement to the Standard is that extractive industry transparency should not be confined to EITI reports and expensive reconciliation exercises, but become an integral part of how governments manage their sector. Rather than simply relying on the EITI reporting mechanism to bring about transparency, governments implementing the EITI could to a greater extent make the information required by the EITI Standard available through government and corporate reporting systems such as databases, websites, annual reports, portals etc. The Department, as managed by ONRR, has robust audit and assurances practices in place to demonstrate accountability for the revenues paid and received for our country's oil, gas, and mineral resources. ONRR is now further integrating how we manage data and the EITI Standard by disclosing for the first time project-level reporting. In the 2017 USEITI Annual Report, ONRR will disclose in addition to the unilateral disclosure of revenues by revenue stream, commodity and company the ONRR and Office of Surface Mining revenue streams by parent company and by State. USEITI has already demonstrated global leadership and through the data portal, an effective means of providing transparency around the governance of extractive industries revenue management and ensuring improved public awareness. Mainstreaming government data will continue to demonstrate leadership in transparency.

INFORMATION MEMORANDUM FOR THE ASSISTANT SECRETARY

FROM: Greg Gould, Director, Office of Natural Resources Revenue Management

SUBJECT: USEITI – Options for Implementing the 2016 Extractive Industries Transparency Initiative (EITI) Standard

DATE: April 4, 2017

ISSUE

The Department of the Interior, leading U.S. implementation of the EITI Standard, began in the fall of 2011, an aggressive timeline to establish a multistakeholder group (MSG); achieve Candidate Country status in March 2014; and ultimately begin the validation process April 1, 2018. In spite of having met or exceed 22 of 26 individual elements of the Standard (or 8 of the 9 requirements) the USEITI will not be found in compliance with the EITI standard and is likely to be suspended. This paper will present options for improving the process to manage for USEITI compliance and ensuring DOI maintains its commitment to transparent, collaborative and participatory government.

BACKGROUND

Prior to DOI taking the lead in 2011 to implement EITI in the U.S., the U.S. State Department (State) strongly supported EITI. Since EITI's inception in 2002, State has played a key role in shaping the EITI into the global standard it is today. State participated and continues to participate as a supporting country. Through its representation on the EITI Board and the Finance and Governance and Oversight Committees, State works to clarify, interpret, and promote the rules of the EITI Standard, including by helping to draft guidance documents on how to assess country compliance. U.S. leadership has played a crucial role in the endorsement of the EITI by the G-7, the G-20, and the United Nations Security Council.

The United States Agency for International Development (USAID) has provided significant support to EITI both at the multilateral level and through direct bilateral support for implementation through USAID Missions around the world. Specifically USAID has provided over \$30 million in assistance for EITI implementation, peer exchange, and research.

Domestic implementation of EITI is subject to existing laws and regulations. For example, the Trade Secrets Act and the Federal Oil and Gas Royalty Management Act (FOGRMA) of 1982, prohibit the Federal government from releasing company pricing information and Federal employees are subject to criminal penalties if they violate these laws. Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is applicable. The IRC imposes civil and criminal penalties for violations of the disclosure prohibitions.

INTRODUCTION

The Extractive Industries Transparency Initiative, or EITI, is a voluntary, global effort designed to strengthen accountability and public trust for the revenues paid and received for a country's oil, gas, and mineral resources. EITI brings together a coalition of government, companies, and civil society, or Multistakeholder Group (MSG), to strengthen government and company systems, inform public debate, and promote understanding.

The U.S. government successfully completed the initial requirements to join EITI as a candidate country when the International EITI Board accepted our candidacy application in March 2014. Key successes to date include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency.

In 2016, the Department of the Interior (the lead federal agency) entered a new phase in implementing EITI. The EITI International Board revised the EITI Standard in February 2016, to include requirements for disclosure of beneficial owners of extractive companies and to provide opportunity to “mainstream” revenue data by governments and companies in lieu of an independent reconciliation of reported revenues. The work of the USEITI MSG (39 members and alternates from federal, state, and tribal governments, civil society and industry) is to ensure that the USEITI framework is tailored to U.S. laws, regulations, and culture, and that it is implementable by government and industry.

The USEITI primary challenges for compliance are: corporate income tax reporting; project-level reporting and beneficial owner disclosure of the corporate entity(ies) that bid for, operate or invest in extractive assets. Unlike other implementing countries, company reporting in the U.S. is entirely voluntary. Despite current setbacks there is a path forward for U.S. commitment to EITI; implementing with the expectation of achieving compliance and sustaining our role in the global Open Government Partnership. The path forward parallels the Department's commitment to reforming revenue management and royalty collections. This memorandum addresses considerations of this phase of USEITI implementation and provides options to resolve implementing challenges in successfully achieving compliance with the EITI standard.

I. AREAS FOR CONSIDERATION

Implementing EITI will continue to improve government revenue transparency in the U.S. and continue to serve as an example internationally. The primary areas of consideration for 2017 and leading to the validation on April 1, 2018, are multi-agency involvement, governance of the USEITI multistakeholder group, institutionalizing the principles of EITI in the U.S. Department of the Interior and mainstreaming government data. In order to recommend appropriate options for a government position, this paper takes into account the U.S. legal context, legal constraints, feasibility, and the international EITI requirements.

MULTI-AGENCY INVOLVEMENT

In July 2012, the Department of the Interior established the USEITI-Sub-Interagency Policy Committee (Sub-IPC) to discuss the status of implementation of the EITI Standard and make decisions requiring interagency input. The Sub-IPC consisted of the following agencies: Office of Management and Budget (OMB); National Security Council (NSC); and Office of Science and Technology Policy (OSTP); as well as the Departments of State, Treasury, and Energy. The Sub-IPC was led by the National Security Council. The National Security Council, Securities Exchange Commission; Treasury Department and Department of the Interior are all critical to the ultimate success of the U.S. implementation of the EITI Standard.

On June 27, 2016 the Securities and Exchange Commission (SEC) issued a final rule, Disclosure of Payments by Resource Extraction Issuers, implementing section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203, July 21, 2010), which required certain companies to report to the SEC their payments related to extractive industries activities. The payments that issuers were to report under the rule included taxes, royalties, fees, production entitlements, bonuses, social responsibility payments (if required by law or contract), dividends, payments for infrastructure improvements. In July 2016, the SEC issued an order recognizing the resource extraction payment disclosure requirements of the European Union, Canada and the U.S. Extractive Industries Transparency Initiative as substantially similar to the requirements of Rule 13q-1 under the Securities Exchange Act of 1934. The SEC requirements were both broader and narrower than EITI requirements. EITI does not require reporting of payments for social responsibility, infrastructure improvements or dividends, but does require reporting of fines or payments, which are not within in the scope of Dodd-Frank or the SEC rule. Congress disapproved the SEC regulations in February 2017 however, the Act still requires the SEC to promulgate regulations to implement section 1504 of the Act.

The Internal Revenue Service (IRS) is the primary Government body in charge of managing all tax payments, including payment of corporate income tax, which falls under the purview of USEITI. In the U.S. there are two key sources of publicly available information about federal income taxes for the extractive industries: the government and the filings of companies that are publicly listed. As mandated by the Revenue Act of 1916, the IRS publishes statistics related to “the operations of the internal revenue laws” as they affect individuals, corporations, and various other entities. The IRS Statistics of Income (SOI) program is responsible for executing this function by collecting, processing, and presenting this data, and then sharing information about how the tax system works with other government agencies and the general public.

The Department of the Treasury, in May 2016, issued a customer due diligence rule (CDD Rule), which streamlines and clarifies several components of customer due diligence under the Bank Secrecy Act to promote consistency and added a key new requirement for U.S. financial institutions to know the real people who own, control, and profit from companies (the “beneficial owners”)—and verify their identities. U.S. law requires all legal entities that open a U.S. bank account or have a Federal or State tax filing requirement obtain an EIN for tax administration purposes. Further, an entity is required to obtain an EIN if it has employees, or is required to file any documents including tax returns, with the IRS. An EIN (also known as a taxpayer identification number) is also required, under the Banking Secrecy Act, to open a bank account.

Section 13(d) of the Securities Exchange Act of 1934 requires any person or group that acquires more than five percent “beneficial ownership” of public company equity securities to disclose its position within 10 days of crossing the threshold. There is no institutional framework for public disclosure of beneficial ownership disclosure information in the U.S. as required by the EITI Standard. There is, however, a substantial and growing framework for the collection of beneficial ownership information from both public and private companies operating in the U.S.

The Department of the Interior maintains the primary role in the U.S. Government for the governance of energy and non-energy mineral resources. Several different Bureaus within the Department of the Interior collect non-tax payments depending on the type of payment, the location of exploration and production, and the type of resource being extracted. These include: Interior’s Office of Natural Resources Revenue, the Bureau of Land Management, and the Office of Surface Mining Reclamation and Enforcement. The Office of Natural Resources Revenue manages and ensures full payment of revenues owed for the development of the nation’s energy and natural resources on the Outer Continental Shelf and onshore Federal and Indian lands.

MULTISTAKEHOLDER COMMITTEE MANAGEMENT

In 2012, The Department of the Interior conducted a series of stakeholder engagements to ascertain the optimal course for USEITI multistakeholder committee management. The options included a Federal Operating Committee, an existing FACA Committee, Non-Federal Entity and a New FACA Committee.

Federal Operating Committees are established by Congress through legislation. An operating committee is established to perform primarily ‘operational as opposed to ‘advisory’ functions. While providing legitimacy and decision-making authority, this legislative option does not allow for expediency. An Existing FACA Committee would require the Charter to address the scope and the Secretary to appoint new members. A Non-Federal Entity, a non-governmental organization, such as a 501(c)(3) allows the two non-governmental sectors (industry and civil society) to come together to create a committee or group, and then seek participation by the federal government in that entity; or the federal government could use a contract, grant, or cooperative agreement to ask a separate, “third-party” entity to convene and/or operate the MSG as a non-Federal entity. In this case, there does not appear to be enough certainty around the mechanism and the authority for creation, thus drawing into question the legitimacy of such a group. Additionally, creating a 501(c)(3) would require an investment of time and money that does not support expediency and sustainability. A non-federal entity would require recognition by the Federal government to bestow decision-making authority and most likely, any changes in federal rules or regulations proposed by the MSG would trigger FACA requirements. Finally, a new FACA Committee could be convened by either the Department of the Interior or the Office of President. Because a FACA Committee only provides advice to the federal government, and the federal government appoints its members, there is concern that a FACA might not meet the EITI expectation of collaboration, sector self-selection, and responsibility for implementing EITI.

After careful consideration of input from the public at large and stakeholders, the FACA committee option provides the legitimacy, expediency, and sustainability required to ensure the

successful implementation of USEITI. In 2012, with assurances from the government, the FACA committee should be able to fulfill the initial functions of an MSG, to develop a fully-costed work plan to design and implement the USEITI framework and obtain EITI compliance, within the spirit and framework of the EITI requirements. The Government noted at the time, that making a decision to set-up the initial U.S. MSG as a FACA did not mean the U.S. MSG would remain so as US EITI implementation moved forward. The MSG, as part of its deliberations, could decide to seek legislation or another option to reform the USEITI MSG.

2017 CHALLENGES TO IMPLEMENTING EITI REQUIREMENTS

The USEITI primary challenges for 2017 are: corporate income tax reporting (Congressionally disapproved Dodd-Frank §1504 regulations required a resource extraction issuer to disclose taxes); project-level reporting (Congressionally disapproved Dodd-Frank §1504 regulations defined project as operational activities that are governed by a single contract, license, lease, concession, or similar legal agreement, which form the basis for payment liabilities with a government); mainstreaming reporting requirements; and beneficial owner disclosure (of the corporate entity(ies) that bid for, operate or invest in extractive assets). Unlike other implementing countries, company reporting in the U.S. is entirely voluntary.

The EITI Standard requires reporting on “profits taxes,” or taxes on income, where material. Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is applicable. The MSG requested companies to voluntarily report the sum of all federal corporate income tax payments and encouraged reconciliation. For the 2015 USEITI Report, 12 out of 41 applicable companies reported \$190 million in corporate income taxes and in the 2016 USEITI Report, 12 out of 38 applicable companies reported -\$308 million in corporate income taxes.

The EITI Standard states that the MSG is required to agree on the level of disaggregation for publishing data, that EITI data must be presented by individual company, government entity, and revenue stream, and requires that reporting at project level. The standard does not provide a specific definition of “project,” but states it should be consistent with the SEC rules and European Union laws. Section 1504 of the Dodd-Frank Act requires extractive industries companies registered with the SEC to separately disclose information about payments to governments around the world in an interactive data format.

Options for Implementing the 2016 EITI Standard:

1) In 2017, the U.S. seeks adapted implementation of the company reporting requirements required under the 2010 Dodd Frank Act until such time that the Securities Exchange Commission promulgates regulations under the Act. The request for adapted implementation acknowledges the Congressional disapproval of the Dodd Frank §1504 SEC Regulations. This option requires the USEITI MSG support and there is no change to the USEITI MSG Federal Advisory Committee or governance of domestic implementation.

- 2) The U.S. seeks an extension to the April 1, 2018, timeframe for initiating validation. This option requires the USEITI MSG support and there is no change to the USEITI MSG Federal Advisory Committee or governance of domestic implementation.
- 3) The USEITI MSG is reformulated in a streamlined fashion and yet still consistent with the EITI principles of governance. This option requires the USEITI MSG support.
- 4) The lead for domestic implementation of the EITI Standard shifts to the White House, National Security Council with Interior, Treasury and the SEC all partnering in implementation and that the USEITI MSG is reformulated in a streamlined fashion, incorporating option 3 above.

RECOMMENDATION:

Despite current setbacks there is a path forward for: U.S. commitment to EITI; implementing EITI with the expectation of achieving compliance; and sustaining our role in the global Open Government Partnership.

We recommend Option 4 as the most feasible path forward to achieve compliance with the Standard. It will be necessary to have full support from State, Treasury, SEC and the National Security Council to implement this option. Interior has lead domestic implementation to date yet only has jurisdiction with respect to governance associated with natural resource extraction on federal and Indian Lands and associated non-tax revenue management.

In addition to Option 4 above, we recommend institutionalizing appropriate EITI requirements within the Office of Natural Resources Revenue. The path forward parallels the Department's commitment to reforming revenue management and royalty collections. We recognize that public understanding of government revenues and expenditures over time informs public debate and informs choice of appropriate and realistic options for sustainable energy development. We also remain committed to encouraging high standards of transparency and accountability to the public for our mission and in our everyday operations.

We also welcome the idea of mainstreamed EITI non-tax revenue disclosures in lieu of company reporting and Independent Administrator reconciliation. The rationale for the 2016 refinement to the Standard is that extractive industry transparency should not be confined to EITI reports and expensive reconciliation exercises, but become an integral part of how governments manage their sector. Rather than simply relying on the EITI reporting mechanism to bring about transparency, governments implementing the EITI could to a greater extent make the information required by the EITI Standard available through government and corporate reporting systems such as databases, websites, annual reports, portals etc. The Department, as managed by ONRR, has robust audit and assurances practices in place to demonstrate accountability for the revenues paid and received for our country's oil, gas, and mineral resources. USEITI has also demonstrated global leadership and through the data portal, an effective means of providing transparency around the governance of extractive industries revenue management and ensuring improved public awareness.

INFORMATION MEMORANDUM FOR THE ASSISTANT SECRETARY

FROM: Greg Gould, Director, Office of Natural Resources Revenue Management

SUBJECT: USEITI – Options for Implementing the 2016 Extractive Industries Transparency Initiative (EITI) Standard

DATE: April 4, 2017

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BACKGROUND

Prior to DOI taking the lead in 2011 to implement EITI in the U.S., the U.S. State Department (State) strongly supported EITI. Since EITI's inception in 2002, State has played a key role in shaping the EITI into the global standard it is today. State participated and continues to participate as a supporting country. Through its representation on the EITI Board and the Finance and Governance and Oversight Committees, State works to clarify, interpret, and promote the rules of the EITI Standard, including by helping to draft guidance documents on how to assess country compliance. U.S. leadership has played a crucial role in the endorsement of the EITI by the G-7, the G-20, and the United Nations Security Council.

The United States Agency for International Development (USAID) has provided significant support to EITI both at the multilateral level and through direct bilateral support for implementation through USAID Missions around the world. Specifically USAID has provided over \$30 million in assistance for EITI implementation, peer exchange, and research.

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INTRODUCTION

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The U.S. government successfully completed the initial requirements to join EITI as a candidate country when the International EITI Board accepted our candidacy application in March 2014. Key successes to date include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency.

In 2016, the Department of the Interior (the lead federal agency) entered a new phase in implementing EITI. The EITI International Board revised the EITI Standard in February 2016, to include requirements for disclosure of beneficial owners of extractive companies and to provide opportunity to “mainstream” revenue data by governments and companies in lieu of an independent reconciliation of reported revenues. The work of the USEITI MSG (39 members and alternates from federal, state, and tribal governments, civil society and industry) is to ensure that the USEITI framework is tailored to U.S. laws, regulations, and culture, and that it is implementable by government and industry.

The USEITI primary challenges for compliance are: corporate income tax reporting; project-level reporting and beneficial owner disclosure of the corporate entity(ies) that bid for, operate or invest in extractive assets. Unlike other implementing countries, company reporting in the U.S. is entirely voluntary. Despite current setbacks there is a path forward for U.S. commitment to EITI; implementing with the expectation of achieving compliance and sustaining our role in the global Open Government Partnership. The path forward parallels the Department's commitment to reforming revenue management and royalty collections. This memorandum addresses considerations of this phase of USEITI implementation and provides options to resolve implementing challenges in successfully achieving compliance with the EITI standard.

I. AREAS FOR CONSIDERATION

Implementing EITI will continue to improve government revenue transparency in the U.S. and continue to serve as an example internationally. The primary areas of consideration for 2017 and leading to the validation on April 1, 2018, are multi-agency involvement, governance of the USEITI multistakeholder group, institutionalizing the principles of EITI in the U.S. Department of the Interior and mainstreaming government data. In order to recommend appropriate options for a government position, this paper takes into account the U.S. legal context, legal constraints, feasibility, and the international EITI requirements.

MULTI-AGENCY INVOLVEMENT

In July 2012, the Department of the Interior established the USEITI-Sub-Interagency Policy Committee (Sub-IPC) to discuss the status of implementation of the EITI Standard and make decisions requiring interagency input. The Sub-IPC consisted of the following agencies: Office of Management and Budget (OMB); National Security Council (NSC); and Office of Science and Technology Policy (OSTP); as well as the Departments of State, Treasury, and Energy. The Sub-IPC was led by the National Security Council. The National Security Council, Securities Exchange Commission; Treasury Department and Department of the Interior are all critical to the ultimate success of the U.S. implementation of the EITI Standard.

On June 27, 2016 the Securities and Exchange Commission (SEC) issued a final rule, Disclosure of Payments by Resource Extraction Issuers, implementing section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203, July 21, 2010), which required certain companies to report to the SEC their payments related to extractive industries activities. The payments that issuers were to report under the rule included taxes, royalties, fees, production entitlements, bonuses, social responsibility payments (if required by law or contract), dividends, payments for infrastructure improvements. In July 2016, the SEC issued an order recognizing the resource extraction payment disclosure requirements of the European Union, Canada and the U.S. Extractive Industries Transparency Initiative as substantially similar to the requirements of Rule 13q-1 under the Securities Exchange Act of 1934. The SEC requirements were both broader and narrower than EITI requirements. EITI does not require reporting of payments for social responsibility, infrastructure improvements or dividends, but does require reporting of fines or payments, which are not within in the scope of Dodd-Frank or the SEC rule. Congress disapproved the SEC regulations in February 2017 however, the Act still requires the SEC to promulgate regulations to implement section 1504 of the Act.

The Internal Revenue Service (IRS) is the primary Government body in charge of managing all tax payments, including payment of corporate income tax, which falls under the purview of USEITI. In the U.S. there are two key sources of publicly available information about federal income taxes for the extractive industries: the government and the filings of companies that are publicly listed. As mandated by the Revenue Act of 1916, the IRS publishes statistics related to “the operations of the internal revenue laws” as they affect individuals, corporations, and various other entities. The IRS Statistics of Income (SOI) program is responsible for executing this function by collecting, processing, and presenting this data, and then sharing information about how the tax system works with other government agencies and the general public.

The Department of the Treasury, in May 2016, issued a customer due diligence rule (CDD Rule), which streamlines and clarifies several components of customer due diligence under the Bank Secrecy Act to promote consistency and added a key new requirement for U.S. financial institutions to know the real people who own, control, and profit from companies (the “beneficial owners”)—and verify their identities. U.S. law requires all legal entities that open a U.S. bank account or have a Federal or State tax filing requirement obtain an EIN for tax administration purposes. Further, an entity is required to obtain an EIN if it has employees, or is required to file any documents including tax returns, with the IRS. An EIN (also known as a taxpayer identification number) is also required, under the Banking Secrecy Act, to open a bank account.

Section 13(d) of the Securities Exchange Act of 1934 requires any person or group that acquires more than five percent “beneficial ownership” of public company equity securities to disclose its position within 10 days of crossing the threshold. There is no institutional framework for public disclosure of beneficial ownership disclosure information in the U.S. as required by the EITI Standard. There is, however, a substantial and growing framework for the collection of beneficial ownership information from both public and private companies operating in the U.S.

The Department of the Interior maintains the primary role in the U.S. Government for the governance of energy and non-energy mineral resources. Several different Bureaus within the Department of the Interior collect non-tax payments depending on the type of payment, the location of exploration and production, and the type of resource being extracted. These include: Interior’s Office of Natural Resources Revenue, the Bureau of Land Management, and the Office of Surface Mining Reclamation and Enforcement. The Office of Natural Resources Revenue manages and ensures full payment of revenues owed for the development of the nation’s energy and natural resources on the Outer Continental Shelf and onshore Federal and Indian lands.

MULTISTAKEHOLDER COMMITTEE MANAGEMENT

In 2012, The Department of the Interior conducted a series of stakeholder engagements to ascertain the optimal course for USEITI multistakeholder committee management. The options included a Federal Operating Committee, an existing FACA Committee, Non-Federal Entity and a New FACA Committee.

Federal Operating Committees are established by Congress through legislation. An operating committee is established to perform primarily ‘operational as opposed to ‘advisory’ functions. While providing legitimacy and decision-making authority, this legislative option does not allow for expediency. An Existing FACA Committee would require the Charter to address the scope and the Secretary to appoint new members. A Non-Federal Entity, a non-governmental organization, such as a 501(c)(3) allows the two non-governmental sectors (industry and civil society) to come together to create a committee or group, and then seek participation by the federal government in that entity; or the federal government could use a contract, grant, or cooperative agreement to ask a separate, “third-party” entity to convene and/or operate the MSG as a non-Federal entity. In this case, there does not appear to be enough certainty around the mechanism and the authority for creation, thus drawing into question the legitimacy of such a group. Additionally, creating a 501(c)(3) would require an investment of time and money that does not support expediency and sustainability. A non-federal entity would require recognition by the Federal government to bestow decision-making authority and most likely, any changes in federal rules or regulations proposed by the MSG would trigger FACA requirements. Finally, a new FACA Committee could be convened by either the Department of the Interior or the Office of President. Because a FACA Committee only provides advice to the federal government, and the federal government appoints its members, there is concern that a FACA might not meet the EITI expectation of collaboration, sector self-selection, and responsibility for implementing EITI.

After careful consideration of input from the public at large and stakeholders, the FACA committee option provides the legitimacy, expediency, and sustainability required to ensure the

successful implementation of USEITI. In 2012, with assurances from the government, the FACA committee should be able to fulfill the initial functions of an MSG, to develop a fully-costed work plan to design and implement the USEITI framework and obtain EITI compliance, within the spirit and framework of the EITI requirements. The Government noted at the time, that making a decision to set-up the initial U.S. MSG as a FACA did not mean the U.S. MSG would remain so as US EITI implementation moved forward. The MSG, as part of its deliberations, could decide to seek legislation or another option to reform the USEITI MSG.

2017 CHALLENGES TO IMPLEMENTING EITI REQUIREMENTS

The USEITI primary challenges for 2017 are: corporate income tax reporting (Congressionally disapproved Dodd-Frank §1504 regulations required a resource extraction issuer to disclose taxes); project-level reporting (Congressionally disapproved Dodd-Frank §1504 regulations defined project as operational activities that are governed by a single contract, license, lease, concession, or similar legal agreement, which form the basis for payment liabilities with a government); mainstreaming reporting requirements; and beneficial owner disclosure (of the corporate entity(ies) that bid for, operate or invest in extractive assets). Unlike other implementing countries, company reporting in the U.S. is entirely voluntary.

The EITI Standard requires reporting on “profits taxes,” or taxes on income, where material. Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is applicable. The MSG requested companies to voluntarily report the sum of all federal corporate income tax payments and encouraged reconciliation. For the 2015 USEITI Report, 12 out of 41 applicable companies reported \$190 million in corporate income taxes and in the 2016 USEITI Report, 12 out of 38 applicable companies reported -\$308 million in corporate income taxes.

The EITI Standard states that the MSG is required to agree on the level of disaggregation for publishing data, that EITI data must be presented by individual company, government entity, and revenue stream, and requires that reporting at project level. The standard does not provide a specific definition of “project,” but states it should be consistent with the SEC rules and European Union laws. Section 1504 of the Dodd-Frank Act requires extractive industries companies registered with the SEC to separately disclose information about payments to governments around the world in an interactive data format.

Options for Implementing the 2016 EITI Standard:

1) In 2017, the U.S. seeks adapted implementation of the company reporting requirements required under the 2010 Dodd Frank Act until such time that the Securities Exchange Commission promulgates regulations under the Act. The request for adapted implementation acknowledges the Congressional disapproval of the Dodd Frank §1504 SEC Regulations. The Board will consider this option in light of MSG support and decide whether to approve adapted implementation. This option requires the USEITI MSG support and there is no change to the USEITI MSG Federal Advisory Committee structure or the governance of domestic implementation.

- 2) The U.S. requests the Board to approve a ‘pause’ for one year seeks a 1-year extension to the April 1, 2018, timeframe for initiating validation. The reason for the “pause” and extension is to allow the new Administration time to place senior leadership, critical to decision making, in all the key Agencies (i.e., DOI, State, Treasury). This option requires the USEITI MSG support and there is no change to the USEITI MSG Federal Advisory Committee or the governance of domestic implementation.
- 3) The USEITI MSG is reformulated in a streamlined fashion, it remains a FACA committee that advises the Secretary of the Interior and also remains consistent with the EITI principles of governance. Having demonstrated significant accomplishments over the past 5 years and relying on the willingness of many dedicated members of the MSG to continue to volunteer their time, it may be time to reduce the burden on all sectors. This option requires the USEITI MSG support.
- 4) The lead for domestic implementation of the EITI Standard shifts to the White House, National Security Council with Interior, Treasury and the SEC all partnering in implementation and that the USEITI MSG is reformulated in a streamlined fashion, incorporating option 3 above.
- 5) The U.S. government unilaterally decided to no longer participate and withdraws as an implementing country. State Department will remain in the Supporting Country role.

RECOMMENDATION:

Despite current setbacks there is a path forward for: U.S. commitment to EITI; implementing EITI with the expectation of achieving compliance; and sustaining our role in the global Open Government Partnership.

We recommend Option 4 as the most feasible path forward to achieve compliance with the Standard. It will be necessary to have full support from State, Treasury, SEC and the National Security Council to implement this option. Interior has lead domestic implementation to date yet only has jurisdiction with respect to governance associated with natural resource extraction on federal and Indian Lands and associated non-tax revenue management. In light of the April 3, 2017, Federal Register notice of the Secretary of the Interior establishing and seeking nominations for the Royalty Policy Committee (RPC or Committee) there may be a path forward for the streamlined MSG approach. The Committee will advise on current and emerging issues related to the determination of fair market value, and the collection of revenue from energy and mineral resources on Federal and Indian lands. The Committee also will advise on the potential impacts of proposed policies and regulations related to revenue collection from such development, including whether a need exists for regulatory reform. We believe the purpose of the Committee aligns with principles of EITI that address the valuable role of stakeholders in seeking solutions to issues in the area of natural resource extraction and revenue management. A streamlined USEITI MSG can be a significant source of support to the RPC in their discussions and deliberations.

In addition to Option 4 above, we also recommend institutionalizing appropriate EITI requirements within the Office of Natural Resources Revenue. The path forward parallels the

Department's commitment to reforming revenue management and royalty collections. We recognize that public understanding of government revenues and expenditures over time informs public debate and informs choice of appropriate and realistic options for sustainable energy development. Maintaining the USEITI data portal and integrating even more government revenue data and information is vital to support public policy and is fundamental to the Royalty Policy Committee discussions and deliberations. We also remain committed to encouraging high standards of transparency and accountability to the public for our mission and in our everyday operations.

We also welcome the idea of mainstreamed EITI non-tax revenue disclosures in lieu of company reporting and Independent Administrator reconciliation. The rationale for the 2016 refinement to the Standard is that extractive industry transparency should not be confined to EITI reports and expensive reconciliation exercises, but become an integral part of how governments manage their sector. Rather than simply relying on the EITI reporting mechanism to bring about transparency, governments implementing the EITI could to a greater extent make the information required by the EITI Standard available through government and corporate reporting systems such as databases, websites, annual reports, portals etc. The Department, as managed by ONRR, has robust audit and assurances practices in place to demonstrate accountability for the revenues paid and received for our country's oil, gas, and mineral resources. ONRR is now further integrating how we manage data and the EITI Standard by disclosing for the first time project-level reporting. In the 2017 USEITI Annual Report, ONRR will disclose in addition to the unilateral disclosure of revenues by revenue stream, commodity and company the ONRR and Office of Surface Mining revenue streams by parent company and by State. USEITI has already demonstrated global leadership and through the data portal, an effective means of providing transparency around the governance of extractive industries revenue management and ensuring improved public awareness. Mainstreaming government data will continue to demonstrate leadership in transparency.

INFORMATION MEMORANDUM FOR THE ASSISTANT SECRETARY

FROM: Greg Gould, Director, Office of Natural Resources Revenue Management

SUBJECT: USEITI – Options for Implementing the 2016 Extractive Industries Transparency Initiative (EITI) Standard

DATE: April 4, 2017

ISSUE

The Department of the Interior, which leads U.S. implementation of the EITI Standard, began in the fall of 2011 an aggressive timeline to establish a multi-stakeholder group (MSG); achieve Candidate Country status in March 2014; and ultimately begin the validation process by April 1, 2018. However, despite having met or exceeded 22 of 26 individual elements of the Standard (8 of the 9 requirements), at the conclusion of the validation process, the USEITI will not be found in compliance with the EITI Standard and is thus likely to be suspended from the initiative. This paper presents options for avoiding such an outcome, improving our management of the USEITI process, and maintaining DOI's commitment to transparent, collaborative and participatory government.

BACKGROUND

Prior to DOI taking the lead in 2011 to implement EITI in the United States, the Department of State (State) strongly supported EITI and coordinated U.S. participation in the global effort as a supporting country. Since EITI's inception in 2002, State has played a key role in shaping the EITI into the global standard for revenue transparency. Through its representation of the United State as a supporting country on the EITI Board and participation in the Finance and Governance and Oversight Committees, State works to clarify, interpret, and promote the rules of the EITI Standard, including by helping to draft guidance documents on how to assess country compliance. U.S. leadership has played a crucial role in the endorsement of the EITI by the G-7, the G-20, and the United Nations Security Council.

The United States Agency for International Development (USAID) has provided significant support to EITI both at the multilateral level and through direct bilateral support for implementation through USAID Missions around the world. USAID has provided over \$30 million in assistance for EITI implementation, peer exchange, and research.

Domestic implementation of EITI is subject to existing laws and regulations. For example, the Trade Secrets Act and the Federal Oil and Gas Royalty Management Act (FOGRMA) of 1982, prohibit the Federal government from releasing company pricing information and Federal employees are subject to criminal penalties if they violate these laws. Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is

applicable. The IRC imposes civil and criminal penalties for violations of the disclosure prohibitions.

INTRODUCTION

The Extractive Industries Transparency Initiative, or EITI, is a voluntary, global effort designed to strengthen accountability and public trust for the revenues paid and received for a country's oil, gas, and mineral resources. EITI brings together a coalition of government, companies, and civil society, or Multi-stakeholder Groups (MSG's), to strengthen government and company systems, inform public debate, and promote understanding.

The U.S. government successfully completed the initial requirements to join EITI as a candidate country when the EITI International Board accepted our candidacy application in March 2014. Key successes to date include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency.

In 2016, the Department of the Interior (the lead federal agency) entered a new phase in implementing EITI. The EITI International Board revised the EITI Standard in February 2016, to include requirements for disclosure of beneficial owners of extractive companies and to provide the opportunity to "mainstream" revenue data by governments and companies in lieu of an independent reconciliation of reported revenues. The work of the USEITI MSG (39 members and alternates from federal, state, and tribal governments, civil society and industry) is to ensure that the USEITI framework is tailored to U.S. laws, regulations, and culture, and that it is implementable by government and industry.

The USEITI primary challenges for compliance are: corporate income tax reporting; project-level reporting and beneficial owner disclosure of the corporate entity(ies) that bid for, operate or invest in extractive assets. Unlike other implementing countries, company reporting in the United States is entirely voluntary. Despite current setbacks there is a path forward for U.S. commitment to EITI -- implementing with the expectation of achieving compliance and sustaining our role in the global Open Government Partnership. The path forward parallels the Department's commitment to reforming revenue management and royalty collections. This memorandum addresses considerations of this phase of USEITI implementation and provides options to resolve implementing challenges in successfully achieving compliance with the EITI standard.

I. AREAS FOR CONSIDERATION

Implementing EITI will continue to improve government revenue transparency in the United States and continue to serve as an example internationally. The primary areas of consideration for 2017 and leading to the validation on April 1, 2018, are multi-agency involvement, governance of the USEITI multi-stakeholder group, institutionalizing the principles of EITI in

the Department of the Interior and mainstreaming government data. In order to recommend appropriate options for a government position, this paper takes into account the U.S. legal context, legal constraints, feasibility, and the international EITI requirements.

MULTI-AGENCY INVOLVEMENT

In July 2012, the Department of the Interior established the USEITI Sub-Interagency Policy Committee (Sub-IPC) to discuss the status of implementation of the EITI Standard and make decisions requiring interagency input. The Sub-IPC consisted of the following agencies: Office of Management and Budget (OMB); National Security Council (NSC); and Office of Science and Technology Policy (OSTP); as well as the Departments of State, Treasury, and Energy. The Sub-IPC was led by the National Security Council. The National Security Council, Securities Exchange Commission, Treasury Department and Department of the Interior are all critical to the ultimate success of the U.S. implementation of the EITI Standard.

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The Department of the Interior maintains the primary role in the U.S. Government for the governance of energy and non-energy mineral resources. Several different Bureaus within the Department of the Interior collect non-tax payments depending on the type of payment, the location of exploration and production, and the type of resource being extracted. These include: Interior’s Office of Natural Resources Revenue, the Bureau of Land Management, and the Office of Surface Mining Reclamation and Enforcement. The Office of Natural Resources Revenue manages and ensures full payment of revenues owed for the development of the nation’s energy and natural resources on the Outer Continental Shelf and onshore Federal and Indian lands.

MULTISTAKEHOLDER COMMITTEE MANAGEMENT

In 2012, the Department of the Interior conducted a series of stakeholder engagements to ascertain the optimal course for USEITI multi-stakeholder committee management. The options included a Federal Operating Committee, an existing FACA Committee, Non-Federal Entity and a New FACA Committee.

Federal Operating Committees are established by Congress through legislation. An operating committee is established to perform primarily ‘operational as opposed to ‘advisory’ functions. While providing legitimacy and decision-making authority, this legislative option does not allow for expediency. An Existing FACA Committee would require the Charter to address the scope and the Secretary to appoint new members. A Non-Federal Entity, a non-governmental organization, such as a 501(c)(3) allows the two non-governmental sectors (industry and civil society) to come together to create a committee or group, and then seek participation by the federal government in that entity; or the federal government could use a contract, grant, or cooperative agreement to ask a separate, “third-party” entity to convene and/or operate the MSG as a non-Federal entity. In this case, there does not appear to be enough certainty around the mechanism and the authority for creation, thus drawing into question the legitimacy of such a group. Additionally, creating a 501(c)(3) would require an investment of time and money that does not support expediency and sustainability. A non-federal entity would require recognition by the Federal government to bestow decision-making authority and most likely, any changes in federal rules or regulations proposed by the MSG would trigger FACA requirements. Finally, a new FACA Committee could be convened by either the Department of the Interior or the Office of President. Because a FACA Committee only provides advice to the federal government, and the federal government appoints its members, there is concern that a FACA might not meet the

EITI expectation of collaboration, sector self-selection, and responsibility for implementing EITI.

After careful consideration of input from the public at large and stakeholders, the FACA committee option provides the legitimacy, expediency, and sustainability required to ensure the successful implementation of USEITI. In 2012, with assurances from the government, the FACA committee should be able to fulfill the initial functions of an MSG, to develop a fully-costed work plan to design and implement the USEITI framework and obtain EITI compliance, within the spirit and framework of the EITI requirements. The Government noted at the time, that making a decision to set-up the initial U.S. MSG as a FACA did not mean the U.S. MSG would remain so as USEITI implementation moved forward. The MSG, as part of its deliberations, could decide to seek legislation or another option to reform the USEITI MSG.

2017 CHALLENGES TO IMPLEMENTING EITI REQUIREMENTS

The USEITI primary challenges for 2017 are: corporate income tax reporting (Congressionally disapproved Dodd-Frank §1504 regulations required a resource extraction issuer to disclose taxes); project-level reporting (Congressionally disapproved Dodd-Frank §1504 regulations defined project as operational activities that are governed by a single contract, license, lease, concession, or similar legal agreement, which form the basis for payment liabilities with a government); mainstreaming reporting requirements; and beneficial owner disclosure (of the corporate entity(ies) that bid for, operate or invest in extractive assets). Unlike other implementing countries, company reporting in the U.S. is entirely voluntary.

The EITI Standard requires reporting on “profits taxes,” or taxes on income, where material. Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is applicable. The MSG requested companies to voluntarily report the sum of all federal corporate income tax payments and encouraged reconciliation. For the 2015 USEITI Report, 12 out of 41 applicable companies reported \$190 million in corporate income taxes and in the 2016 USEITI Report, 12 out of 38 applicable companies reported -\$308 million in corporate income taxes.

The EITI Standard states that the MSG is required to agree on the level of disaggregation for publishing data, that EITI data must be presented by individual company, government entity, and revenue stream, and requires that reporting at project level. The standard does not provide a specific definition of “project,” but states it should be consistent with the SEC rules and European Union laws. Section 1504 of the Dodd-Frank Act requires extractive industries companies registered with the SEC to separately disclose information about payments to governments around the world in an interactive data format.

Options for Implementing the 2016 EITI Standard:

1) In 2017, the United States seeks adapted implementation of the company reporting requirements required under the 2010 Dodd Frank Act until such time as the Securities Exchange Commission promulgates regulations under the Act. The request for adapted implementation,

made to the EITI International Board, acknowledges the Congressional disapproval of the Dodd Frank §1504 SEC Regulations. The Board will consider this option in light of MSG support and decide whether to approve adapted implementation. This option requires USEITI MSG support and there is no change to the USEITI MSG Federal Advisory Committee structure or the governance of domestic implementation. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

2) The United States requests the EITI International Board to approve an implementation 'pause' for one year combined with a one-year extension to the April 1, 2018, timeframe for initiating validation. We would argue that the "pause" and extension would allow the new Administration time to place senior leadership critical to decision making in all the key Agencies (i.e., DOI, State, Treasury). This option requires the USEITI MSG support and there is no change to the USEITI MSG Federal Advisory Committee or the governance of domestic implementation. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

3) The USEITI MSG is reformulated in a streamlined fashion. The MSG remains a FACA committee that advises the Secretary of the Interior and also remains consistent with the EITI principles of governance. Having demonstrated significant accomplishments over the past five years and relying on the willingness of many dedicated members of the MSG to continue to volunteer their time, this option would reduce the burden of participation on all sectors. This option requires USEITI MSG support. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

(b) (5)

4) The lead for domestic implementation of the EITI Standard shifts to the White House, National Security Council, with Interior, Treasury and the SEC partnering in implementation. The USEITI MSG is reformulated in a streamlined fashion, incorporating option 3 above. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

(b) (5)

5) The U.S. government unilaterally decides to no longer participate and withdraws as an implementing country. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

RECOMMENDATION:

Despite current setbacks there is a path forward for: U.S. commitment to EITI; implementing EITI with the expectation of achieving compliance; and sustaining our role in the global Open Government Partnership.

We recommend Option 4 as the most feasible path forward to achieve compliance with the Standard. It will be necessary to have full support from State, Treasury, SEC and the National Security Council to implement this option. Interior has lead domestic implementation to date yet only has jurisdiction with respect to governance associated with natural resource extraction on federal and Indian Lands and associated non-tax revenue management. In light of the April 3, 2017, Federal Register notice of the Secretary of the Interior establishing and seeking

nominations for the Royalty Policy Committee (RPC or Committee) there may be a path forward for the streamlined MSG approach. The Committee will advise on current and emerging issues related to the determination of fair market value, and the collection of revenue from energy and mineral resources on Federal and Indian lands. The Committee also will advise on the potential impacts of proposed policies and regulations related to revenue collection from such development, including whether a need exists for regulatory reform. We believe the purpose of the Committee aligns with principles of EITI that address the valuable role of stakeholders in seeking solutions to issues in the area of natural resource extraction and revenue management. A streamlined USEITI MSG can be a significant source of support to the RPC in their discussions and deliberations

In addition to Option 4 above, we also recommend institutionalizing appropriate EITI requirements within the Office of Natural Resources Revenue. The path forward parallels the Department's commitment to reforming revenue management and royalty collections. We recognize that public understanding of government revenues and expenditures over time informs public debate and informs choice of appropriate and realistic options for sustainable energy development. Maintaining the USEITI data portal and integrating even more government revenue data and information is vital to support public policy and is fundamental to the Royalty Policy Committee discussions and deliberations. We also remain committed to encouraging high standards of transparency and accountability to the public for our mission and in our everyday operations.

We also welcome the idea of mainstreamed EITI non-tax revenue disclosures in lieu of company reporting and Independent Administrator reconciliation. The rationale for the 2016 refinement to the Standard is that extractive industry transparency should not be confined to EITI reports and expensive reconciliation exercises, but become an integral part of how governments manage their sector. Rather than simply relying on the EITI reporting mechanism to bring about transparency, governments implementing the EITI could to a greater extent make the information required by the EITI Standard available through government and corporate reporting systems such as databases, websites, annual reports, portals etc. The Department, as managed by ONRR, has robust audit and assurances practices in place to demonstrate accountability for the revenues paid and received for our country's oil, gas, and mineral resources. ONRR is now further integrating how we manage data and the EITI Standard by disclosing for the first time project-level reporting. In the 2017 USEITI Annual Report, ONRR will disclose in addition to the unilateral disclosure of revenues by revenue stream, commodity and company the ONRR and Office of Surface Mining revenue streams by parent company and by State. USEITI has already demonstrated global leadership and through the data portal, an effective means of providing transparency around the governance of extractive industries revenue management and ensuring improved public awareness. Mainstreaming government data will continue to demonstrate leadership in transparency.

INFORMATION MEMORANDUM FOR THE ASSISTANT SECRETARY

FROM: Greg Gould, Director, Office of Natural Resources Revenue Management

SUBJECT: USEITI – Options for Implementing the 2016 Extractive Industries Transparency Initiative (EITI) Standard

DATE: April 4, 2017

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The Department of the Interior, which leads U.S. implementation of the EITI Standard, began in the fall of 2011 an aggressive timeline to establish a multi-stakeholder group (MSG); achieve Candidate Country status in March 2014; and ultimately begin the validation process by April 1, 2018. However, despite having met or exceeded 22 of 26 individual elements of the Standard (8 of the 9 requirements), at the conclusion of the validation process, the USEITI will not be found in compliance with the EITI Standard and is thus likely to be suspended from the initiative. This paper presents options for avoiding such an outcome, improving our management of the USEITI process, and maintaining DOI's commitment to transparent, collaborative and participatory government.

BACKGROUND

Prior to DOI taking the lead in 2011 to implement EITI in the United States, the Department of State (State) strongly supported EITI and coordinated U.S. participation in the global effort as a supporting country. Since EITI's inception in 2002, State has played a key role in shaping the EITI into the global standard for revenue transparency. Through its representation of the United States as a supporting country on the EITI Board and participation in the Finance and Governance and Oversight Committees, State works to clarify, interpret, and promote the rules of the EITI Standard, including by helping to draft guidance documents on how to assess country compliance. U.S. leadership has played a crucial role in the endorsement of the EITI by the G-7, the G-20, and the United Nations Security Council.

The United States Agency for International Development (USAID) has provided significant support to EITI both at the multilateral level and through direct bilateral support for implementation through USAID Missions around the world. USAID has provided over \$30 million in assistance for EITI implementation, peer exchange, and research.

Domestic implementation of EITI is subject to existing laws and regulations. For example, the Trade Secrets Act and the Federal Oil and Gas Royalty Management Act (FOGRMA) of 1982, prohibit the Federal government from releasing company pricing information and Federal employees are subject to criminal penalties if they violate these laws. Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is

applicable. The IRC imposes civil and criminal penalties for violations of the disclosure prohibitions.

INTRODUCTION

The Extractive Industries Transparency Initiative, or EITI, is a voluntary, global effort designed to strengthen accountability and public trust for the revenues paid and received for a country's oil, gas, and mineral resources. EITI brings together a coalition of government, companies, and civil society, or Multi-stakeholder Groups (MSG's), to strengthen government and company systems, inform public debate, and promote understanding.

The U.S. government successfully completed the initial requirements to join EITI as a candidate country when the EITI International Board accepted our candidacy application in March 2014. Key successes to date include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency.

In 2016, the Department of the Interior (the lead federal agency) entered a new phase in implementing EITI. The EITI International Board revised the EITI Standard in February 2016, to include requirements for disclosure of beneficial owners of extractive companies and to provide the opportunity to "mainstream" revenue data by governments and companies in lieu of an independent reconciliation of reported revenues. The work of the USEITI MSG (39 members and alternates from federal, state, and tribal governments, civil society and industry) is to ensure that the USEITI framework is tailored to U.S. laws, regulations, and culture, and that it is implementable by government and industry.

The USEITI primary challenges for compliance are: corporate income tax reporting; project-level reporting and beneficial owner disclosure of the corporate entity(ies) that bid for, operate or invest in extractive assets. Unlike other implementing countries, company reporting in the United States is entirely voluntary. Despite current setbacks there is a path forward for U.S. commitment to EITI -- implementing with the expectation of achieving compliance and sustaining our role in the global Open Government Partnership. The path forward parallels the Department's commitment to reforming revenue management and royalty collections. This memorandum addresses considerations of this phase of USEITI implementation and provides options to resolve implementing challenges in successfully achieving compliance with the EITI standard.

I. AREAS FOR CONSIDERATION

Implementing EITI will continue to improve government revenue transparency in the United States and continue to serve as an example internationally. The primary areas of consideration for 2017 and leading to the validation on April 1, 2018, are multi-agency involvement, governance of the USEITI multi-stakeholder group, institutionalizing the principles of EITI in

the Department of the Interior and mainstreaming government data. In order to recommend appropriate options for a government position, this paper takes into account the U.S. legal context, legal constraints, feasibility, and the international EITI requirements.

MULTI-AGENCY INVOLVEMENT

In July 2012, the Department of the Interior established the USEITI Sub-Interagency Policy Committee (Sub-IPC) to discuss the status of implementation of the EITI Standard and make decisions requiring interagency input. The Sub-IPC consisted of the following agencies: Office of Management and Budget (OMB); National Security Council (NSC); and Office of Science and Technology Policy (OSTP); as well as the Departments of State, Treasury, and Energy. The Sub-IPC was led by the National Security Council. The National Security Council, Securities Exchange Commission, Treasury Department and Department of the Interior are all critical to the ultimate success of the U.S. implementation of the EITI Standard.

On June 27, 2016 the Securities and Exchange Commission (SEC) issued a final rule, Disclosure of Payments by Resource Extraction Issuers, implementing section 1504 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203, July 21, 2010), which required certain companies to report to the SEC their payments related to extractive industries activities. The payments that issuers were to report under the rule included taxes, royalties, fees, production entitlements, bonuses, social responsibility payments (if required by law or contract), dividends, payments for infrastructure improvements. In July 2016, the SEC issued an order recognizing the resource extraction payment disclosure requirements of the European Union, Canada and the U.S. Extractive Industries Transparency Initiative as substantially similar to the requirements of Rule 13q-1 under the Securities Exchange Act of 1934. The SEC requirements were both broader and narrower than EITI requirements. EITI does not require reporting of payments for social responsibility, infrastructure improvements or dividends, but does require reporting of fines or payments, which are not within in the scope of Dodd-Frank or the SEC rule. Congress disapproved the SEC regulations in February 2017; however, the Act still requires the SEC to promulgate regulations to implement section 1504 of the Act.

The Internal Revenue Service (IRS) is the primary Government body in charge of managing all tax payments, including payment of corporate income tax, which falls under the purview of USEITI. In the United States there are two key sources of publicly available information about federal income taxes for the extractive industries: the government and the filings of companies that are publicly listed. As mandated by the Revenue Act of 1916, the IRS publishes statistics related to “the operations of the internal revenue laws” as they affect individuals, corporations, and various other entities. The IRS Statistics of Income (SOI) program is responsible for executing this function by collecting, processing, and presenting this data, and then sharing information about how the tax system works with other government agencies and the general public.

The Department of the Treasury, in May 2016, issued a customer due diligence rule (CDD Rule), which streamlines and clarifies several components of customer due diligence under the Bank Secrecy Act to promote consistency and added a key new requirement for U.S. financial institutions to know the real people who own, control, and profit from companies (the “beneficial

owners”)—and verify their identities. U.S. law requires all legal entities that open a U.S. bank account or have a Federal or State tax filing requirement obtain an EIN for tax administration purposes. Further, an entity is required to obtain an EIN if it has employees, or is required to file any documents including tax returns, with the IRS. An EIN (also known as a taxpayer identification number) is also required, under the Banking Secrecy Act, to open a bank account. Section 13(d) of the Securities Exchange Act of 1934 requires any person or group that acquires more than five percent “beneficial ownership” of public company equity securities to disclose its position within 10 days of crossing the threshold. There is no institutional framework for public disclosure of beneficial ownership disclosure information in the United States as required by the EITI Standard. There is, however, a substantial and growing framework for the collection of beneficial ownership information from both public and private companies operating in the U.S.

The Department of the Interior maintains the primary role in the U.S. Government for the governance of energy and non-energy mineral resources. Several different Bureaus within the Department of the Interior collect non-tax payments depending on the type of payment, the location of exploration and production, and the type of resource being extracted. These include: Interior’s Office of Natural Resources Revenue, the Bureau of Land Management, and the Office of Surface Mining Reclamation and Enforcement. The Office of Natural Resources Revenue manages and ensures full payment of revenues owed for the development of the nation’s energy and natural resources on the Outer Continental Shelf and onshore Federal and Indian lands.

MULTISTAKEHOLDER COMMITTEE MANAGEMENT

In 2012, the Department of the Interior conducted a series of stakeholder engagements to ascertain the optimal course for USEITI multi-stakeholder committee management. The options included a Federal Operating Committee, an existing FACA Committee, Non-Federal Entity and a New FACA Committee.

Federal Operating Committees are established by Congress through legislation. An operating committee is established to perform primarily ‘operational as opposed to ‘advisory’ functions. While providing legitimacy and decision-making authority, this legislative option does not allow for expediency. An Existing FACA Committee would require the Charter to address the scope and the Secretary to appoint new members. A Non-Federal Entity, a non-governmental organization, such as a 501(c)(3) allows the two non-governmental sectors (industry and civil society) to come together to create a committee or group, and then seek participation by the federal government in that entity; or the federal government could use a contract, grant, or cooperative agreement to ask a separate, “third-party” entity to convene and/or operate the MSG as a non-Federal entity. In this case, there does not appear to be enough certainty around the mechanism and the authority for creation, thus drawing into question the legitimacy of such a group. Additionally, creating a 501(c)(3) would require an investment of time and money that does not support expediency and sustainability. A non-federal entity would require recognition by the Federal government to bestow decision-making authority and most likely, any changes in federal rules or regulations proposed by the MSG would trigger FACA requirements. Finally, a new FACA Committee could be convened by either the Department of the Interior or the Office of President. Because a FACA Committee only provides advice to the federal government, and the federal government appoints its members, there is concern that a FACA might not meet the

EITI expectation of collaboration, sector self-selection, and responsibility for implementing EITI.

After careful consideration of input from the public at large and stakeholders, the FACA committee option provides the legitimacy, expediency, and sustainability required to ensure the successful implementation of USEITI. In 2012, with assurances from the government, the FACA committee should be able to fulfill the initial functions of an MSG, to develop a fully-costed work plan to design and implement the USEITI framework and obtain EITI compliance, within the spirit and framework of the EITI requirements. The Government noted at the time, that making a decision to set-up the initial U.S. MSG as a FACA did not mean the U.S. MSG would remain so as USEITI implementation moved forward. The MSG, as part of its deliberations, could decide to seek legislation or another option to reform the USEITI MSG.

2017 CHALLENGES TO IMPLEMENTING EITI REQUIREMENTS

The USEITI primary challenges for 2017 are: corporate income tax reporting (Congressionally disapproved Dodd-Frank §1504 regulations required a resource extraction issuer to disclose taxes); project-level reporting (Congressionally disapproved Dodd-Frank §1504 regulations defined project as operational activities that are governed by a single contract, license, lease, concession, or similar legal agreement, which form the basis for payment liabilities with a government); mainstreaming reporting requirements; and beneficial owner disclosure (of the corporate entity(ies) that bid for, operate or invest in extractive assets). Unlike other implementing countries, company reporting in the U.S. is entirely voluntary.

The EITI Standard requires reporting on “profits taxes,” or taxes on income, where material. Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is applicable. The MSG requested companies to voluntarily report the sum of all federal corporate income tax payments and encouraged reconciliation. For the 2015 USEITI Report, 12 out of 41 applicable companies reported \$190 million in corporate income taxes and in the 2016 USEITI Report, 12 out of 38 applicable companies reported -\$308 million in corporate income taxes.

The EITI Standard states that the MSG is required to agree on the level of disaggregation for publishing data, that EITI data must be presented by individual company, government entity, and revenue stream, and requires that reporting at project level. The standard does not provide a specific definition of “project,” but states it should be consistent with the SEC rules and European Union laws. Section 1504 of the Dodd-Frank Act requires extractive industries companies registered with the SEC to separately disclose information about payments to governments around the world in an interactive data format.

Options for Implementing the 2016 EITI Standard:

1) In 2017, the United States seeks adapted implementation of the company reporting requirements required under the 2010 Dodd Frank Act until such time as the Securities Exchange Commission promulgates regulations under the Act. The request for adapted implementation,

made to the EITI International Board, acknowledges the Congressional disapproval of the Dodd Frank §1504 SEC Regulations. The Board will consider this option in light of MSG support and decide whether to approve adapted implementation. This option requires USEITI MSG support and there is no change to the USEITI MSG Federal Advisory Committee structure or the governance of domestic implementation. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

2) The United States requests the EITI International Board to approve an implementation ‘pause’ for one year combined with a one-year extension to the April 1, 2018, timeframe for initiating validation. We would argue that the “pause” and extension would allow the new Administration time to place senior leadership critical to decision making in all the key Agencies (i.e., DOI, State, Treasury). This option requires the USEITI MSG support and there is no change to the USEITI MSG Federal Advisory Committee or the governance of domestic implementation. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

3) The USEITI MSG is reformulated in a streamlined fashion. The MSG remains a FACA committee that advises the Secretary of the Interior and also remains consistent with the EITI principles of governance. Having demonstrated significant accomplishments over the past five years and relying on the willingness of many dedicated members of the MSG to continue to volunteer their time, this option would reduce the burden of participation on all sectors. This option requires USEITI MSG support. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

4) The lead for domestic implementation of the EITI Standard shifts to the White House, National Security Council, with Interior, Treasury and the SEC partnering in implementation. The USEITI MSG is reformulated in a streamlined fashion, incorporating option 3 above. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

5) The U.S. government unilaterally decides to no longer participate and withdraws as an implementing country. The Department of State continues to coordinate U.S. participation in the global effort as a supporting country.

RECOMMENDATION:

Despite current setbacks there is a path forward for: U.S. commitment to EITI; implementing EITI with the expectation of achieving compliance; and sustaining our role in the global Open Government Partnership.

We recommend Option 4 as the most feasible path forward to achieve compliance with the Standard. It will be necessary to have full support from State, Treasury, SEC and the National Security Council to implement this option. Interior has lead domestic implementation to date yet only has jurisdiction with respect to governance associated with natural resource extraction on federal and Indian Lands and associated non-tax revenue management. In light of the April 3, 2017, Federal Register notice of the Secretary of the Interior establishing and seeking

nominations for the Royalty Policy Committee (RPC or Committee) there may be a path forward for the streamlined MSG approach. The Committee will advise on current and emerging issues related to the determination of fair market value, and the collection of revenue from energy and mineral resources on Federal and Indian lands. The Committee also will advise on the potential impacts of proposed policies and regulations related to revenue collection from such development, including whether a need exists for regulatory reform. We believe the purpose of the Committee aligns with principles of EITI that address the valuable role of stakeholders in seeking solutions to issues in the area of natural resource extraction and revenue management. A streamlined USEITI MSG can be a significant source of support to the RPC in their discussions and deliberations

In addition to Option 4 above, we also recommend institutionalizing appropriate EITI requirements within the Office of Natural Resources Revenue. The path forward parallels the Department's commitment to reforming revenue management and royalty collections. We recognize that public understanding of government revenues and expenditures over time informs public debate and informs choice of appropriate and realistic options for sustainable energy development. Maintaining the USEITI data portal and integrating even more government revenue data and information is vital to support public policy and is fundamental to the Royalty Policy Committee discussions and deliberations. We also remain committed to encouraging high standards of transparency and accountability to the public for our mission and in our everyday operations.

We also welcome the idea of mainstreamed EITI non-tax revenue disclosures in lieu of company reporting and Independent Administrator reconciliation. The rationale for the 2016 refinement to the Standard is that extractive industry transparency should not be confined to EITI reports and expensive reconciliation exercises, but become an integral part of how governments manage their sector. Rather than simply relying on the EITI reporting mechanism to bring about transparency, governments implementing the EITI could to a greater extent make the information required by the EITI Standard available through government and corporate reporting systems such as databases, websites, annual reports, portals etc. The Department, as managed by ONRR, has robust audit and assurances practices in place to demonstrate accountability for the revenues paid and received for our country's oil, gas, and mineral resources. ONRR is now further integrating how we manage data and the EITI Standard by disclosing for the first time project-level reporting. In the 2017 USEITI Annual Report, ONRR will disclose in addition to the unilateral disclosure of revenues by revenue stream, commodity and company the ONRR and Office of Surface Mining revenue streams by parent company and by State. USEITI has already demonstrated global leadership and through the data portal, an effective means of providing transparency around the governance of extractive industries revenue management and ensuring improved public awareness. Mainstreaming government data will continue to demonstrate leadership in transparency.

**UNITED STATES EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE
MULTI-STAKEHOLDER GROUP ADVISORY COMMITTEE MEETING
JUNE 27-28, 2016**

SUMMARY OF PROCEEDINGS

**U.S. DEPARTMENT OF THE INTERIOR
PREPARED: JULY 2016**

I. Introduction

The U.S. Department of the Interior (DOI), with Kris Sarri presiding as Designated Federal Official (DFO) and Paul Mussenden and Judy Wilson presiding as acting DFO, convened the eighteenth meeting of the U.S. Extractive Industries Transparency Initiative (USEITI) Multi-Stakeholder Group Advisory Committee (MSG) on June 27-28, 2016, in Washington, DC. The purpose of the meeting was to receive updates from the Independent Administrator on various aspects of developing the online report and executive summary for the 2016 USEITI Report and how to move forward with these; discuss communications and state and tribal opt-in efforts; and discuss the prospects for proceeding with mainstreaming of USEITI reporting into US government processes, the inclusion of beneficial ownership information, and validation of US EITI Reports.

Please note that, throughout this meeting summary, comments made by presenters, Independent Administrator team members, other non-MSG members, and those directly pertaining to an MSG decision are attributed to specific speakers. Other comments are provided without attribution in order to foster open discussion among MSG members excepting final deliberations prior to specific MSG decisions.

Interested parties are asked to contact USEITI at useiti@ios.doi.gov or 202-208-0272 with any questions, comments, or concerns regarding the content of this meeting summary.

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II. Summary of Endorsements, Decisions, Approvals, and Action Items

A. Endorsements

- No endorsements were made by the MSG at the June 2016 MSG meeting.

B. Decisions

- The MSG forwarded the content created by the IA about the Abandoned Mine Land (AML) Reclamation Program to 18F. *(see page 8)*
- The MSG approved the Montana template as a general template for state and tribal reporting, subject to tailoring by each entity participating. *(see page 9)*
- The MSG forwarded the US budget, audit, and assurance processes content created by the IA to 18F while the IA works with the Online Advisory Work Group and MSG subject matter experts to further revise any content that needs further work. *(see page 13)*
- The MSG forwarded the coal excise tax contextual information to 18F for inclusion in the 2016 USEITI Report, with additional review and comment to be provided by industry sector coal industry representatives, as needed. *(see page 14)*
- The MSG approved the Executive Summary Outline with revisions suggested by MSG members: inclusion of background on USEITI, guidance about how to navigate the online report, and year-to-year comparative information. *(see page 15)*

C. Approvals

- The MSG approved the March 2016 MSG meeting summary. *(see page 5)*
- The MSG approved the updated Terms of Reference. *(see page 5)*
- The MSG approved the 2015 USEITI Annual Activity Report for submission to the International EITI Secretariat. *(see page 6)*
- The MSG approved the renaming and reconstitution of the Reporting and Reconciliation Work Group as the “Beneficial Ownership Work Group.” *(see page 21)*
- The MSG approved the undertaking of a pre-feasibility exercise for mainstreaming of USEITI. *(see page 23)*

D. Confirmations

- No confirmations were made by the MSG at the June 2016 MSG meeting.

E. Action Items

- **Co-Chairs:**
 - Review and distribute meeting summary from June 2016 MSG meeting to MSG members.
 - Develop agenda for November 2016 MSG meeting.
- **USEITI Secretariat:**

- Find usage information about non-service government websites to compare to usage of the USEITI site. *(see page 6)*
- Work with the International EITI Secretariat and the IA to conduct a pre-feasibility exercise for mainstreaming of USEITI. Report on results at November MSG meeting. *(see page 23)*
- Consider the role and participation of the US State Department in the USEITI process. *(see page 26)*
- Work with the International Secretariat and the IA to explore the prospects and risks for USEITI validation and provide a recommendation to the MSG at the November 2016 MSG meeting. *(see page 27)*
- MSG decisions will be recorded in an updated MSG Decision Matrix by the Secretariat. *(see page 28)*
- **State and Tribal Opt-in Subcommittee**
 - Consider how the North Slope Borough case study should be revised to reflect Alaska's unique circumstances. *(see page 8)*
 - State and Tribal Opt-in Subcommittee and the IA ask state-level contacts about additional data sources for county write-ups. *(see page 14)*
 - Prepare an amendment/extension application for adapted implementation. *(see page 26)*
- **CSO Sector**
 - Search for additional County-level data sources and provide them to the IA for consideration to be included in future years of USEITI reporting. *(see page 14)*
- **Beneficial Ownership Work Group**
 - Meet with technical experts, as needed, and provide a report and proposal of a draft roadmap for compliance with the EITI beneficial ownership disclosure requirement to the MSG at the November 2016 MSG meeting. *(see page 21)*
- **Independent Administrator (Deloitte)**
 - Articulate a formal process for the development and final approval of content for USEITI reports. *(see page 7)*
 - Clearly articulate the distinction between reconciled federal data and un-reconciled state and tribal data in the report. *(see page 8)*
 - State and Tribal Opt-in Subcommittee and the IA ask state-level contacts about additional data sources for county write-ups. *(see page 14)*
 - Include year-to-year comparison information between the 2015 and 2016 USEITI reports in the 2016 Report. *(see page 15)*
- **USEITI Process Facilitator (Consensus Building Institute)**
 - Create a meeting summary for the June 2016 MSG meeting.

III. Presentations and Key Discussions

Kris Sarri, Principle Deputy Assistant Secretary, Policy Management and Budget at the U.S. Department of the Interior (DOI) and Designated Federal Officer (DFO) for the

USEITI MSG, opened the meeting and welcomed participants. All individuals in attendance introduced themselves. A full attendance list can be found in Section VI – Meeting Participants, page 28.

A. Opening Remarks

Ms. Sarri provided opening remarks by stating that USEITI will be working towards launching the 2016 USEITI Report. She recognized the hard work of the subcommittees and work groups between MSG meetings and the importance of open dialogue and discussion between the sectors.

B. USEITI MSG Business

The MSG conducted the following items of business during the course of the MSG meeting.

1. Terminology and USEITI December 2015 Meeting Summary

Judy Wilson, USEITI Secretariat, reminded meeting participants that the MSG has agreed to employ three terms to differentiate between different types of actions that the MSG takes:

- “Decisions” will indicate significant actions and agreements by the MSG key to meeting EITI international standards.
- “Approvals” will indicate lower-level decisions by the MSG, such as approving work plans, meeting summaries, process changes or additions, etc.
- “Confirmations” will confirm decisions that the MSG has previously made.

The MSG approved the meeting summary of the March 2016 MSG Meeting. A copy of the final, approved meeting summary is available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/useiti_msg_mar_2016_mtg_summary_v5_160426.pdf.

- **Approval: The MSG approved the meeting summary from the March 2016 USEITI MSG meeting.**

2. MSG Terms of Reference

Judy Wilson noted that she had provided an overview of updated Terms of Reference (TOR) at the March 2016 MSG meeting and that a final draft version of the TOR was posted to the USEITI website two weeks before the June MSG meeting.

Danielle Brian, Project on Government Oversight and CSO sector co-chair, suggested that some language be included in the TOR articulating the prerogative of each sector to put forward members for inclusion on the MSG, i.e., the principle of self-selection of sector representatives without interference. With the inclusion of language to this effect, the MSG approved the updated Terms of Reference. The final, approved version of the TOR is available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/msg_updated_useiti_terms_of_reference_06282016.pdf

- **Approval: The MSG approved the updated Terms of Reference.**

3. Update on USEITI Website User Analytics

Judy Wilson gave a brief presentation to the MSG about the nature of user visits to the USEITI Report website (available online at: <https://useiti.doi.gov/>). Ms. Wilson described the trends in user visits, the length of time that visitors spent on the website, and the breakdown between new and repeat users. More information is available in Ms. Wilson's presentation slides, available online at: https://www.doi.gov/sites/doi.gov/files/uploads/google_analytics_2016.pdf.

In response to Ms. Wilson's comments, MSG members asked the following questions; responses from Ms. Wilson are provided in italics:

- Is 4,000 users during the first half of 2016 a lot of users? How does this compare to other popular government websites? *Ms. Wilson: The most visited government websites tend to be service-oriented websites that users visit to access a specific service that the government provides to people. So it does not make much sense to compare the usage of an informational website like the USEITI site to service websites.*
- Would it be possible to find usage information about non-service government websites so that we can make an appropriate comparison? *Ms. Wilson: Yes, the Secretariat will find that information.*

4. 2015 Annual Activity Report

Chris Mentasti, USEITI Secretariat, introduced the 2015 USEITI Annual Activity Report as a product created by the USEITI facilitator, the Consensus Building Institute. Tushar Kansal, Consensus Building Institute, added that the Annual Activity Report summarized activities undertaken by USEITI during 2015 and also speaks to concepts included in the 2016 EITI Standard, such as mainstreaming.

- **Approval: The MSG approved the 2015 USEITI Annual Activity Report for submission to the International EITI Secretariat.**

5. Subcommittee and Work Group Organization

The Reporting and Reconciliation Work Group was renamed and reconstituted as the "Beneficial Ownership Work Group."

C. Independent Administrator's Updates

Members of the Independent Administrator (IA) team from Deloitte provided updates on their progress towards preparation of the 2016 USEITI Report. IA team members provided updates on components of the online component of the 2016 report, the executive summary, and the reporting and reconciliation process. These updates and accompanying MSG discussions are summarized below.

1. Updates to Online Report Revisions/Additions

Sarah Platts, Independent Administrator team member from Deloitte, presented an overview of the IA's project plan for creating the USEITI 2016 Report. She explained that, among other work to update online report contents for 2016, the IA team is creating the content for three new visualizations: 1) Abandoned Mine Lands (AML) Fund; 2) State & Tribal Additions; and Budget; and, 3) Audit, and Assurance Process. The IA is also updating information in the twelve county case studies from the 2015 report and updating contextual information about the coal excise tax. Ms. Platts clarified that, although the IA team creates the content for visualizations, 18F designs the visualizations that will appear in the online report. She also noted that the pdf/printed report for 2016 is intended to be an Executive Summary that will be significantly shorter than the 2015 pdf/printed report, as discussed at the completion of the lengthy 2015 report. Additional information is available in Ms. Platt's presentation slides, available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/20160717_ia_project_plan_v_send.pdf.

MSG members made the following comments and asked the following questions following Ms. Platts' presentation; *direct responses to questions and comments are indicated in italics, with the speaker indicated, as relevant:*

- What will the process be moving forward with decision-making and finalization of the content that the IA is creating? *Members of the IA team: The IA has already worked with the relevant work groups, subcommittees, and with the Online Advisory Work Group to vet the content that is being presented to the MSG at this meeting. Once the MSG approves these items, the IA will send the content that it has created to 18F, which will then turn the content into visualizations and other material that will be incorporated into the online report website. 18F will also continue to work with the Online Advisory Work Group to make sure that the final formatting and presentation that 18F is creating remains true to the MSG's intent. Last year, having a full-day session with the Co-Chairs to make final decisions on outstanding sector comments worked well and it could be productive to have a similar process this year. Additional information about the content and visualization development process is available online in the following slide:*
https://www.doi.gov/sites/doi.gov/files/uploads/20160628_18f_visualization_process.pdf.
- Is it correct that the USEITI contract with 18F only runs until September? *Director of ONRR: Yes, that is correct. However, ONRR will be bringing "in-house" the 18F process by hiring three Innovation Fellows to join the USEITI Secretariat team. This will give us more flexibility in the future about how to build out the report website without having the constraints of a contracted approach.*
- Which states and tribes are being included in the "State and Tribal Additions" visualization material? *Chair of the State and Tribal Opt-In Subcommittee: The*

visualization will be focused on those states and tribes that have expressed an interest in opting into USEITI.

- When I do a Google search for “USEITI,” the online report website does not come up within the first five search results. Could this be fixed? *Representative from the USEITI Secretariat: The online report website is being revamped such that it should better catch the Google crawlers and fix this issue.*
- The content that is being shown to the MSG at this meeting has not been previously reviewed by the sectors as a whole. Should another work group be tasked with working with the IA on new content? Will the sectors still be able to provide additional comments and edits before this material is finalized?
 - *Ms. Platts: Minor edits and suggestions are welcome.*
 - *Chair of the Implementation Subcommittee: Although the content has not been reviewed by all of the MSG members or the sectors as a whole prior to this meeting, the three additional visualization topics were approved by the MSG towards the end of 2015 and the IA has been vetting the content with MSG work groups and subcommittees.*
- There is a distinction between including Federal data, which has been reconciled, and state data, which USEITI will be including in its report without vetting or verification. This distinction should be clearly stated in the report.
- It is the MSG’s responsibility to approve all of the content that is included in the USEITI report but the industry sector has been very resource-constrained this year and has had little opportunity to review the new content. The industry sector has been very clear this year that the MSG should remain focused on its top priorities, which the MSG previously identified as income tax reporting, reconciliation, and state and tribal opt-in.
- Similarly to the industry sector, I am also resource constrained since I work without an organization supporting me. I provided extensive edits to the North Slope Borough case study and, while many of my edits were incorporated, I also provided context and background around governance in Alaska that was not included. Why was this material not included?
 - *Member of the IA team: The IA cannot automatically incorporate all of the edits provided by a representative of one sector. The IA must work with all three sectors to secure consensus around revisions.*
 - *The Chair of the State and Tribal Opt-in Subcommittee recognized that the context for Alaska is substantively different from other states (and county case studies) and suggested that the State and Tribal Opt-in Subcommittee consider how the North Slope Borough case study should be revised to reflect these circumstances.*

a) Abandoned Mine Lands (AML) Reclamation Program Addition

Luke Hawbaker, IA team member, presented an overview of the content that the IA created about the Abandoned Mine Land (AML) Reclamation Program. He explained that the IA organized the material into three sections: Abandoned Mine Land Overview, AML Revenue & Disbursements, and The AML Fund. Once the MSG approves the

content created by the IA, the IA will send the content to 18F for design and finalization of presentation. The content presented by Mr. Hawbaker is available online at: https://www.doi.gov/sites/doi.gov/files/uploads/useiti_aml_visualization_20160607_vs_end.pdf.

MSG members made the following comments and asked the following questions following Mr. Hawbaker's presentation; *direct responses to questions and comments are indicated in italics*:

- Veronika Kohler, National Mining Association and industry sector co-chair, thanked the IA for accommodating the industry sector's capacity gap between the departure of coal company representatives from the MSG and awaiting the seating of a new representative. She added that she has heard widespread praise of the AML material prepared by the IA.
 - Dan Dudis, Public Citizen, inquired whether the maps of coal mines would be interactive and would allow users to identify which mines have been reclaimed. *Mr. Hawbaker indicated that the maps would not be interactive in the 2016 Report but that this functionality could be considered for incorporation in future years.*
 - Paul Mussenden and Ms. Kohler inquired about the process for finalizing the presentation of content once the MSG approves it.
 - *Greg Gould, ONRR and government sector co-chair, responded that the Online Advisory Work Group would work closely with 18F and MSG members to make sure that 18F's final presentation of content aligns with the MSG's intentions.*
 - *John Mennel, IA team member, noted that 18F may make some revisions in formatting and verbiage based on its design work and user-testing process.*
 - *In response to suggestions from Ms. Kohler and Ms. Brian, Ms. Platts agreed to provide a process schema for tracking work products through the review and finalization process. John Cassidy, IA team member, requested that the MSG try to abide by the process laid out by the IA.*
 - The MSG approved the content created by the IA about the Abandoned Mine Land (AML) Reclamation Program.
- **Decision: The MSG decided to send the content created by the IA about the Abandoned Mine Land (AML) Reclamation Program to 18F.**

b) State and Tribal Addition

Mr. Hawbaker presented an overview of the content that the IA created about Montana, one of the states and tribes exploring USEITI opt-in. He explained that the process of creating the Montana content included collecting input from the State of Montana and from MSG members and working with the State and Tribal Opt-In Subcommittee to review and revise the content. The IA is putting forward the Montana content as a template for approval by the MSG; if the MSG approves the Montana

content, the IA will create similar content for other states and tribes. The Montana content is available online at:
https://www.doi.gov/sites/doi.gov/files/uploads/state_opt-in_visualization_montana_6_10_2016_vmsg.pdf with enlarged mock-ups of components of the Montana content available online at:
https://www.doi.gov/sites/doi.gov/files/uploads/2016june10_montana_enlarged_mockups_vmsg.pdf.

Editor's Note: For purposes of continuity, MSG discussion that was conducted during the "State and Tribal Opt-in Subcommittee Update" session (see page 17) is included in this section of the meeting summary.

MSG members made the following comments and asked the following questions following Mr. Hawbaker's presentation; *direct responses to questions and comments are indicated in italics:*

- Johanna Nesseth, Chevron, noted that whereas the MSG took the approach of informing the counties that were profiled in the county case studies that narratives based on publicly available information would be included in the USEITI report, the process has been more interactive with the opting-in states and tribes. *Mr. Hawbaker explained that the IA is sending draft versions of write-ups to states for multiple rounds of review and comment. Tribes have an exclusive right of final approval and sign-off on their write-ups. Danielle Brian added that the tribes are accorded this higher level of editorial authority due to the Federal government's trust responsibility with them.*
- Michael Gardner, Rio Tinto, inquired about whom the IA is speaking with at the state level. *Sarah Platts explained that the State and Tribal Opt-in Subcommittee provides the IA with a state point of contact who then also provides contact information for other state officials. Ms. Brian added that the State and Tribal Opt-in Subcommittee and the IA are also working to consult with state-level representatives from the industry and CSO sectors in addition to state government representatives.*
- Ms. Nesseth also suggested that Federal and state data would need to be very clearly differentiated and that revenue information be presented before regulatory information.
 - *Mr. Hawbaker responded that it should be relatively easy for 18F to identify data sources.*
 - *Paul Mussenden noted that both Federal and state data are forms of public data and that state regulatory agencies are accorded the same weight as Federal agencies. Kris Sarri suggested that it may be helpful to readers to make it very easy to find information about data sources so that readers can themselves explore the data sources.*
 - *John Mennel stated that both Federal and state/tribal data should come from credible public sector resources and should be well-cited. He added that a difference between Federal and state/tribal data is that, while the*

MSG has decided what data should be included, the states and tribes are largely defining what data to include in the USEITI report through the opt-in process.

- John Harrington suggested that it could be helpful to provide the states and tribes opting into USEITI with a summary of the factors and criteria that the MSG considered when deciding which revenue streams to include at the Federal level. If states or tribes define a revenue stream as material, then the MSG should defer to their decision. Paul Bugala, George Washington University, expressed agreement.
- David Romig, Freeport-McMoRan Oil & Gas, added that, while the MSG should defer to states and tribes, the included revenue streams should relate to the extractive industries.
- Mike Matthews, State of Wyoming, suggested that, if a state or tribe wants to include revenue streams that are not included at the Federal level, that the jurisdiction in question be asked to provide the relevant data.
- Ms. Nessith suggested that the MSG create a mechanism to vet revenue streams such that, for example, the State and Tribal Opt-in Subcommittee consider the revenue streams proposed by states and tribes that maybe or are beyond the scope of the Federal report.
- Dan Dudis suggested that a materiality threshold could be established for including revenue streams and that resources that are not included at the Federal level, such as forestry and fisheries.
- Veronica Slajer, North Star Group, noted that the Red Dog Mine in Alaska would not meet the USEITI materiality threshold but is a very significant mine in Alaska. She suggested creating a template for state and tribal opt-in that is based on the standards defined by the MSG for Federal reporting but also providing a space in the template for states and tribes to propose inclusion of other extractive commodities and revenue streams that are significant for them.
 - *John Cassidy noted that the state and tribal sections may end up looking somewhat different in content and format. In 2015, the MSG sought a uniform format and presentation for the country write-ups.*
- Patrick Field, USEITI facilitator from the Consensus Building Institute, synthesized the discussion and suggested the following process: a template based on the Montana model will be distributed to states and tribes opting into USEITI that would provide them with guidance about revenue reporting for participation in USEITI while also allowing them the opportunity to suggest additional commodities and revenue streams that are locally significant. Those proposed additions that are relatively straightforward would be handled by the IA while those that are further outside Federal scope would be considered by the State and Tribal Opt-in Subcommittee. In addition, the Co-Chairs will circulate drafts of content from the states and tribes that are opting into USEITI to MSG members via email for prompt review and comment.

- David Romig suggested that the acronyms for government agencies used in the report be hyperlinked to the names of the agencies. Lynda Farrell, Pipeline Safety Coalition, inquired about how decisions about hyperlinking are made. *Mr. Hawbaker explained that hyperlinks are generally used the first time that a term is used but that 18F would make final decisions about hyperlinking through design and usability testing.*
 - Keith Romig, United Steelworkers, suggested that the content more clearly differentiate between extractive commodities and primary products.
 - Dan Dudis noted that revenue information seems to be presented more prominently than cost information, in some cases.
 - Mike Matthews noted that many of the larger mine sites are pretty self-contained in terms of equipment and resources and therefore impose minimal costs on the local government. There are also some cases, such as Gillette, Wyoming, where the local mine is significantly supporting the town. This can make it difficult to determine what “fiscal costs” should be included.
 - *Ms. Brian agreed and noted that the IA is only including those costs that states and tribes have themselves directly attributed to extractive industry activity.*
 - Veronika Kohler suggested that, if cost information is going to be included, that contributions from industry be included next to the costs.
 - Ms. Brian added that she would be in favor of that as long as revenue and cost information are presented side-by-side.
 - Mr. Dudis expressed discomfort with presenting revenue and cost information side-by-side because cost information is often under-documented.
 - *Mr. Mennel explained that the IA is using the same criteria for including revenue and cost information that the MSG agreed on for the 2015 report: that the data source be a credible government data source and that the revenue or cost be directly attributed to extractive industry activity by a government entity. He added that, if any sector has concerns about a specific item, it can flag that item for the IA, and if a sector would like to see content presented differently, the IA can communicate that to 18F.*
 - Mr. Dudis inquired whether Montana is particularly rich in available data about the extractive industries. *Ms. Platts responded that Montana, Wyoming, and Alaska are all notably rich in available data among the states, which may be why they are the first three states to be opting into USEITI.*
- **Decision: The MSG decided to approve the Montana template for state and tribal reporting. The template based on the Montana model will be distributed to states and tribes opting into USEITI that would provide them with guidance about revenue reporting for participation in USEITI while also allowing them the opportunity to suggest additional commodities and revenue streams that are locally significant. Those proposed additions that are relatively**

straightforward would be handled by the IA while those that are further outside Federal scope would be considered by the State and Tribal Opt-in Subcommittee. In addition, the Co-Chairs will circulate drafts of content from the states and tribes that are opting into USEITI to MSG members via email for prompt review and comment.

c) Budget, Audit, and Assurance Process Addition

Andrew Varnum, IA team member, presented an overview of the content that the IA created about US budget, audit, and assurance processes. Once the MSG approves the content created by the IA, the IA will send the content to 18F for design and finalization of presentation. The content presented by Mr. Varnum is available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/budget_and_audit_visualization_160610_junemsg.pdf.

MSG members made the following comments and asked the following questions following Mr. Varnum's presentation; *direct responses to questions and comments are indicated in italics*. A number of commenters identified gaps in the information presented:

- John Harrington, ExxonMobil, noted that the large number of linkages to other data and information sources makes it hard to understand exactly what information will be presented but that he could identify some gaps at present, such as that IRS auditors are continuously present onsite at companies, not just when audits are taking place.
- Aaron Padilla, American Petroleum Institute, suggested that more information could be included about non-tax revenues and that steps 2 and 3 presently have some redundancy that could be eliminated.
- Mike Matthews noted that companies are audited at the state level in addition to being audited by the Federal IRS.
- Danielle Brian identified a few linguistic concerns, such as the use of "such as" before "accounting principles" in the Data Validation introduction.

Given the need for further review and revision of portions of the Budget, Audit, and Assurance Process Addition, the MSG agreed to send the content created by the IA to 18F to begin creating the visualization while the IA works with the Online Advisory Work Group and the following subject matter experts to further revise any content that needs further work: Paul Bugala (George Washington University), Aaron Padilla (American Petroleum Institute), Phil Denning (Shell Oil Company), and Curtis Carlson (US Department of the Treasury).

- Sam Bartlett, International EITI Secretariat, commended USEITI on the high quality and clarity of the content created about US budget, audit, and assurance processes.

➤ **Decision: The MSG decided to send the US budget, audit, and assurance processes content created by the IA to 18F while the IA works with the Online**

Advisory Work Group and MSG subject matter experts to further revise any content that needs further work.

d) Twelve County Case Studies

Sarah Platts explained that the IA is updating the twelve county case studies included in the 2015 USEITI Report and is adding some minor content in some cases. Drafts of the case studies are available online at: <https://www.doi.gov/eiti/june-27-28-2016-meeting>.

MSG members made the following comments and asked the following questions following Ms. Platts' comments; *direct responses to questions and comments are indicated in italics*:

- Dan Dudis stated that the draft write-up for the State of Montana is at the scale and depth that he had been anticipating for the county write-ups in 2015. He inquired as to the possibility of trying to find additional data sources for the counties.
- Danielle Brian suggested that the sectors could search for additional data sources and provide them to the IA for consideration to be included in future years of USEITI reporting.
- In response to a question from Mr. Dudis about the possibility of including additional data in the county case studies for the 2016 USEITI Report, Ms. Brian and Greg Gould explained that expanding the county case studies is not included in the work plan for 2016. Mr. Gould added that the budget for contracts with the IA and 18F would need to be considered when deciding whether expanded county write-ups could be included in the 2017 work plan.
- Johanna Nesseth suggested that the State and Tribal Opt-in Subcommittee and the IA could ask state-level contacts about additional data sources.
- Veronika Kohler recommended that decisions about how to expand the report be based on input and requests received from the public.

e) Coal Excise Tax Contextual Information

A draft of the information prepared by the IA about the coal excise tax is available online at: https://www.doi.gov/sites/doi.gov/files/uploads/coal_excise_msg_20160607_vf.pdf.

While suggesting that the MSG move forward with deciding that the coal excise tax contextual information be sent to 18F for inclusion in the 2016 USEITI Report, Veronika Kohler noted that coal mining company representatives have recently left the MSG due to cut backs in the coal industry and thereby requested that the representative from Peabody Energy that is awaiting confirmation to join the MSG be allowed to review the coal excise tax information and provide input.

Greg Gould agreed with Ms. Kohler's request and suggested that the industry sector put forward the Peabody Energy representative as a "technical expert" now so that he can provide input even before being confirmed to join the MSG.

- **Decision: The MSG decided to send the coal excise tax contextual information to 18F for inclusion in the 2016 USEITI Report, with additional review and comment to be provided by industry sector coal industry representatives, as needed.**

2. 2016 USEITI Report (PDF) Executive Summary

Sarah Platts presented the outline for the executive summary to the 2016 USEITI Report to the MSG. She explained that the intention for the executive summary was to make it significantly shorter than the executive summary of the 2015 Report. Ms. Platts also mentioned that the 2015 Report would be archived online so that it would always be publicly available. The outline for the executive summary to the 2016 USEITI Report is available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/20160617_executive_summary_presentation_v_send_0.pdf.

MSG members made the following comments and asked the following questions following Ms. Platts' comments; *direct responses to questions and comments are indicated in italics*:

- John Harrington suggested that a description of USEITI be added to the executive summary outline.
- Keith Romig suggested that guidance about how to navigate the online report be added to the executive summary outline.
- In response to a question from Dan Dudis about whether infographics similar to those included in the 2015 executive summary would be included, Ms. Platts indicated that they would.
- Mr. Dudis inquired as to whether information comparing the 2015 and 2016 reports, such as the number of companies included and the types of quantities of revenues reported, would be provided anywhere. He noted that this is a standard element of reports that are issued annually.
- Mr. Harrington and David Romig questioned the utility of including such a comparison.
- Greg Gould agreed that it could be helpful to include year-to-year comparisons but explained that this is not included in the IA's 2016 scope of work. He suggested that the Secretariat would explore whether it could take this on internally and that, since the data and reports are provided online, readers can draw their own inferences comparing the 2015 and 2016 reports.
- Ms. Kohler suggested that the MSG discuss how the year-to-year comparison would be framed and reported so that, for example, the appropriate emphasis is placed on the level of company participation in reporting and reconciliation given that all revenue data is also provided through unilateral disclosure. Mr. Gould agreed that this would be important to discuss at a future MSG meeting.
 - *John Mennel expressed agreement about the importance of providing year-to-year comparison information and said that the IA would include*

this type of information. The framing and outline could be discussed by the Implementation Subcommittee.

- In response to a question from David Romig about disclosing the use of 2013 data for reconciliation in the 2015 Report and 2015 data in the 2016 Report (and thereby skipping 2014 data), Mr. Gould agreed that it would be important to clearly state that information in the 2016 Report as well as to provide the 2014 revenue data through unilateral disclosure.
- **Decision: The MSG decided to approve the Executive Summary outline for the 2016 Report with revisions suggested by MSG members: inclusion of background on USEITI, guidance about how to navigate the online report, and year-to-year comparative information.**

3. Update on Company Reporting and Reconciliation Process

Alex Klepacz and Kent Schultz, IA team members from Deloitte, provided an update on the company revenue reporting and reconciliation process. They reported on the materials that the IA has distributed to companies, the IA's communication process with companies, and the current status of company participation in reporting and reconciliation. Additional information is available in Mr. Klepacz's and Mr. Schultz's slides, available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/20160617_rr_msg_v_send.pdf.

In response to Mr. Klepacz's and Mr. Schultz's comments, Danielle Brian inquired as to whether it could be helpful to encourage additional companies to participate in reporting and reconciliation if MSG members were to supplement the IA's outreach efforts. Mr. Klepacz responded by explaining that the five companies that have informed the IA that they will not participate in reporting provided somewhat generic reasons for not doing so, such as having time and resource constraints. As such, it may not make much difference if MSG members were to do additional outreach.

D. Communications Subcommittee Update

Veronika Kohler, Chair of the Communications Subcommittee, provided an update on the Subcommittee's activities. She reported that the Subcommittee is revising the USEITI communications plan to focus on outreach around the 2016 USEITI Report with a particular focus on social media to engage the general public. She also reported that 84 people participated in a recent webinar held for the general public and that the Subcommittee is reaching out to Congressional offices. In addition, the IA held two sets of webinars for reporting companies, in Houston and Denver, with one set focused on non-tax revenue reporting and the other focused on tax reporting. Ms. Kohler also reported that the Department of the Interior sent a letter to reporting companies signed by Kris Sarri, Principle Deputy Assistant Secretary, Policy Management and Budget. Ms. Sarri added that a letter from the Secretary of the Interior, Sally Jewel, would go out to reporting companies on the day of the MSG meeting, June 27.

Finally, Ms. Kohler also reported that two public outreach sessions are planned for Montana (one public in Helena and one near or on the Blackfeet Nation) and one for New Orleans, Louisiana. These locations were chosen jointly by the Communications and State and Tribal Opt-in Subcommittees because Montana has both the state and the Blackfeet Nation opting into USEITI and New Orleans was the only location in the earlier round of public outreach at which members of the public attended.

In response to Ms. Kohler's comments, members of the MSG asked the following questions and made the following comments; *responses are indicated in italics*:

- Was the public webinar recorded and, if so, is it accessible for MSG members to view? *Ms. Kohler: yes, the webinar was recorded and is available for viewing. DOI is also exploring how to turn it into a learning module for companies.*
- How receptive do companies seem this year to participating in income tax reporting? *Mr. Klepacz and Mr. Mennel: Although we are seeing more participation by company tax representatives in our outreach events, there was only one question asked across the four webinars. The IA will also be making a presentation at the American Petroleum Institute Tax Conference.*

E. State and Tribal Opt-in Subcommittee Update

Ms. Danielle Brian, Chair of the State and Tribal Opt-in Subcommittee, provided an update on the Subcommittee's work. She reported that three states and one tribe have opted in, with discussions about opt-in progressing with a second tribe. Once approved by the MSG, the IA and 18F will use the same template for state-level reporting that has been created for Montana for other states opting into USEITI. She added that the Alaska state government wants to explore including revenue streams, such as pipelines, that the USEITI MSG has defined as out-of-scope for Federal reporting. Additional information is available in the presentation slides available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/2016june23_state_and_tribal_msg_slides_v4_1.pdf.

Editor's Note: For purposes of continuity, MSG discussion that was conducted during this portion of the meeting is included in the "State and Tribal Addition" section of the meeting summary (see page 9).

F. Implementation Subcommittee Updates

Greg Gould, Chair of the Implementation Subcommittee, introduced the key topics of discussion for the MSG from the Implementation Subcommittee: a revision of the EITI Standard has raised "beneficial ownership" and "mainstreaming" on the agenda for USEITI consideration. Presentations made on these topics and accompanying MSG discussions are summarized below.

1. Update on 2016 EITI Standard Revisions

Judy Wilson provided an overview of key elements of the revised EITI Standard. Her comments focused on seven requirements of the EITI Standard, updated requirements

around disclosure of beneficial ownership, updated requirements around data quality and assurance and the possibility of “mainstreaming” EITI reporting, and updated procedures for validation of country reports. Additional information is available in Ms. Wilson’s presentation slides, available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/eiti_2016_standard.pdf.

2. Beneficial Ownership Roadmap

Members of the Reporting and Reconciliation Work Group of the Implementation Subcommittee presented information of their work group’s due diligence and discussions around the new EITI beneficial ownership requirement and the context for meeting the requirement in the United States. Work group members Paul Bugala (George Washington University), John Harrington (ExxonMobil), Jim Steward (US Department of the Interior), and Curtis Carlson (US Department of the Treasury) reviewed the following information and made the following points:

- The revised requirements around beneficial ownership disclosure are in the 2016 Standard;
- The considerations that would need to be taken into account would be explored in a required “roadmap” for disclosure, due this year, to address beneficial ownership by 2020;
- The beneficial ownership would very likely not apply to publicly held companies that are registered with the Securities and Exchange Commission (SEC). Instead, the requirement would apply to privately held companies that are registered under state laws.
- State laws do not compel disclosure by privately held companies of beneficial ownership.
- Federal laws governing extractive activity do not require disclosure of beneficial ownership.
- There are thousands of extractives companies operating on Federal lands, of which only about 10 percent are publicly traded. There are many other companies that operate on non-Federal lands.
- Various bills have been introduced in Congress to require the identification of beneficial owners over the past ten years. None of these bills would compel the public disclosure of beneficial ownership and none have been enacted into law.
- Compelling disclosure of beneficial ownership will likely be a very difficult undertaking in the United States given existing laws and regulations. The 2016 EITI Standard does allow countries to prioritize disclosure, for example by the largest companies first, with an intention to include all companies in disclosure by 2020.

Additional information is available in the presentation slides available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/beneficial_ownership_overview_presentation_drft_06_17_2016_v9.pdf.

Following the presentation, MSG members asked the following questions and made the following comments:

Rationale of beneficial ownership disclosure

- The MSG should consider how disclosure of beneficial ownership could be most useful in the US context.
- Disclosure of beneficial ownership can help to fight illegal activity, such as money laundering and fraud. Recent disclosures about shell companies incorporated in the US and about the Panama Papers indicate the importance of this.
- Shell companies and the Panama Papers disclosures likely have little relevance to the extractive industries because these types of companies are unlikely to be engaged in extractive industry activities.
- From a global perspective, the EITI requirements around beneficial ownership could be very beneficial. US companies need to consider how to comply with the Corrupt Foreign Practices Act. However, implementation of beneficial ownership disclosure in the US just seems very logistically challenging.
- There is both a domestic rationale and an international rationale for disclosure of beneficial ownership. The former is to prevent someone with a political connection to come into ownership of a mineral resource in less than competitive ways and then benefit financially from that ownership. US law has various mechanisms, such as protections against conflict of interest, to guard against companies and individuals from illicitly coming into ownership of mineral interests. The international rationale for beneficial ownership disclosure is to mitigate the risk of international money laundering and financing of terrorist activities and the like. Various laws are being proposed in the US to address these international threats. So, in terms of the rationale for beneficial ownership disclosure as part of USEITI, the domestic rationale is largely addressed by existing US laws and the latter seems to be outside of what USEITI can meaningfully contribute to.
- It would be more accurate to say that the US has anti-corruption laws but that corruption still can and does take place here despite those laws.
- From the perspective of the International EITI Secretariat, is there any aspect of the international rationale for disclosure of beneficial ownership that is part of the mandate of EITI? *Response from Sam Bartlett, International EITI Secretariat: Some countries have had some success in addressing these trans-border issues by asking questions of the companies operating in their country. Although this is somewhat tricky, there is some potential for individual countries to have an impact on these trans-boundary issues through EITI.*
- States and tribes may not have the same level of control and transparency to combat corruption as those that exist at the Federal level.
- There may be corruption occurring that we are currently unaware of. For example, BLM officials and employees may hold ownership stakes in mineral

resources or in extractives companies. *ONRR Response: There are regulations that prohibit BLM employees from having these sorts of ownership stakes.*

- Without disclosure of beneficial ownership, we do not know whether these regulations are being violated.
- The Federal legislation that has been proposed and was reviewed by the Reporting and Reconciliation Work Group presenters would make ownership information available to law enforcement authorities but would not make it publicly available.
- Unfortunately, those bills have been tabled for the past ten years and have not been enacted, and so prospects for that sort of legislation being enacted soon do not seem likely.

Companies to be included in beneficial ownership disclosure

- Instead of thinking about disclosure of beneficial ownership for tens of thousands of extractives companies in the US, the MSG may want to focus on a manageable subset, such as the companies included in USEITI reporting and reconciliation.
- The following criteria could be used to select a subset of companies included in beneficial ownership disclosure: companies operating on Federal lands, by revenue, by production, by number of leases.

Options that USEITI could consider around beneficial ownership disclosure:

- This could be an opportunity for USEITI to take an element of the EITI Standard and adapt it to be useful for US purposes. For example, USEITI could propose an approach to the International Board that would disclose beneficial ownership information to law enforcement officials to address corruption concerns but would not disclose beneficial ownership publicly.
- Particularly given that privately held companies are incorporated at the state level and that USEITI has neither the power to compel disclosure of beneficial ownership from these firms nor influence with state legislatures to change their laws, USEITI may need to explore adapted implementation around this issue.
- From the perspective of the International EITI Secretariat, would a description of the legal safeguards that the US has enacted to guard against conflict of interest and corruption satisfy the EITI beneficial ownership question? *Response from Mr. Bartlett: After conducting an assessment and creating a roadmap, the USEITI MSG can seek to make that case to the International Board. Each country is expected to present its assessment to the Board and make the case for what it can feasibly do to meet the beneficial ownership requirement.*

Other comments:

- Is there a prospect of the Department of the Interior promulgating new regulations around disclosure of beneficial ownership for companies operating on Federal lands?

- *Response from Greg Gould, Director of ONRR: The charge for USEITI this year is to develop a roadmap around achieving compliance with the beneficial ownership requirement by 2020. That roadmap could include the prospect of Federal rule-making. Generally, the roadmap requires USEITI to identify the potential hurdles to achieving compliance with the beneficial ownership requirement and possible strategies for surmounting those hurdles. The roadmap allows USEITI to help the International EITI Board understand USEITI's prospects for meeting this element of the Standard and, if needed, begin thinking about adapted implementation.*

Next steps around beneficial ownership disclosure:

- Greg Gould, Chair of the Implementation Subcommittee, proposed renaming the Reporting and Reconciliation Work Group as the "Beneficial Ownership Work Group." The MSG approved this renaming and reconstitution of the work group.
 - The newly-named Beneficial Ownership Work Group will meet with technical experts, as needed, and will provide a report and proposal of a draft roadmap for compliance with the EITI beneficial ownership disclosure requirement to the MSG at the November 2016 MSG meeting.
 - Given the timeframe and lack of budget allocated for engaging technical experts by work groups, the Beneficial Ownership Work Group will likely consult with voluntary experts from the US Department of the Treasury and civil society organizations.
- **Approval: The MSG approved the renaming and reconstitution of the Reporting and Reconciliation Work Group as the "Beneficial Ownership Work Group."**

3. Mainstreaming

John Harrington presented information about the Reporting and Reconciliation Work Group's due diligence and discussions around the new EITI option to pursue mainstreaming of reporting. He explained that an increasing number of legal mandates coming into place in the United States, European Union, and other jurisdictions replicate some of the EITI requirements. So, the revised EITI Standard introduces the option for countries to include the reporting of EITI-related information through regular government channels as opposed to a stand-alone EITI report. Mainstreaming could also mean that some core elements of EITI, such as reconciliation of reported revenue, would no longer be required.

Mr. Harrington reviewed the principles underpinning mainstreaming, the procedures for mainstreamed disclosures, and the uncertainties for USEITI around participating in mainstreaming. Mr. Harrington noted that the EITI Board Chair indicated that the Board is intending to initiate mainstreaming with countries that can more fully meet all of the requirements in the EITI Standard, meaning that the US likely would not be considered in the first batch. Additional information is available in Mr. Harrington's presentation

slides, available online at:

www.doi.gov/sites/doi.gov/files/uploads/mainstreaming_msg_mtg_slides_2.pdf.

Following the presentation, MSG members asked the following questions and made the following comments:

- What are the advantages and disadvantages of mainstreaming?
 - It would allow USEITI to avoid the cost of reconciliation and instead dedicate those resources to making the contextual narrative and overall reporting more robust. It could also provide an incentive for other countries to pursue strengthening their controls to a similar level as the US so that they can also forgo reconciliation.
 - *John Mennel, IA team member, added: Mainstreaming would also make the EITI process more sustainable in the sense that integrating reporting into normal government functioning is more likely to persist than a stand-alone EITI reporting process. Additionally, the US likely saw some benefits from the reconciliation process in 2015 in terms of cleaning up data, but the costs of reconciliation likely outweigh those benefits over time.*
 - *Sam Bartlett, International EITI Secretariat, also suggested that mainstreaming could have a public benefit in that it makes up-to-date information more readily and easily publicly accessible. For example, an internet search for royalty payments in their state should yield accurate data.*
- The concept of mainstreaming has been part of the thinking for USEITI from the beginning since EITI implementation was intended to spur greater transparency across the Department of the Interior. The inclusion of mainstreaming in the 2016 EITI Standard allows the US to formalize that greater transparency.
- The Office of Natural Resources Revenue (ONRR) already undertakes significant effort to verify data with payers. The EITI reconciliation process could be seen as duplicative of this ONRR verification process.
- What is the mainstreaming feasibility study intended to address? In addition to working with the US Independent Administrator to conduct a feasibility study, would USEITI be able to work with the International EITI Secretariat? *Response from Sam Bartlett: Although the International Secretariat cannot commit to too much, it is assisting some countries with pre-feasibility scoping. In the US, the International Secretariat would like to see disclosure of tax payments. The US will need to examine what disclosure already exists and what further needs to be done.*
- Given that Australia joined EITI only in May 2016, what is their approach to mainstreaming? *Response from Mr. Bartlett: Australia is still a candidate country but previously ran a pilot EITI program for a few years. That pilot exercise was to test the hypothesis that EITI reconciliation would be redundant with the robust auditing processes that Australia already has in place.*

- What would the difference be between performing a pre-feasibility exercise and conducting the full feasibility study? *Response from Mr. Bartlett: The full feasibility study would be much more extensive. The pre-feasibility exercise could likely focus on scoping and likely hurdles and be prepared by the next MSG meeting in November. Another consideration for USEITI is that, with adapted implementation approved for the first two reports, a mainstreaming feasibility study could choose to focus only on Federal revenues or it could include state and tribal revenues given the need to report these beginning with the third USEITI report.*

Greg Gould, the Chair of the Implementation Subcommittee and head of the USEITI Secretariat, proposed that that USEITI Secretariat work with the International EITI Secretariat and the IA to conduct a pre-feasibility exercise for mainstreaming of USEITI.

- **Approval: The MSG approved the undertaking of a mainstreaming pre-feasibility exercise.**

G. Dodd-Frank Act Section 1504 Update

Greg Gould provided a high-level summary of the just released final rule for Section 1504 of the Dodd-Frank Act that released by the US Securities and Exchange Commission (SEC) on June 27, 2016. Mr. Gould's general and initial summary covered reporting requirements, the definition of "project," the types of payments included, relationship to USEITI, and the effective date of the draft final rule. Additional information is available in Mr. Gould's presentation slides, available online at: https://www.doi.gov/sites/doi.gov/files/uploads/dodd_frank_sec_presentation.pdf.

In response to Mr. Gould's comments, MSG members made the following comments:

- The definition of "project" in the SEC rule appears to have been drafted to align closely with EU and Canadian regulations.
- Throughout the rule, the SEC references the EU and Canadian regulations, as well as EITI and USEITI, in an apparent effort to align with these other entities.
- It seems that USEITI would be working at cross-purposes of this emerging consensus if it were to define "project" distinctly from these precedents.

H. Validation Discussion

John Mennel, IA team member from Deloitte, presented information about the EITI validation process and its implications for USEITI. He reviewed the EITI International Board's validation process, the indicators that the Board considers, the countries that are currently compliant with EITI and those that are attempting validation in 2016 and 2017, case studies from the validation process of select countries, notable changes to the validation process that were implemented with the 2016 EITI Standard, and the outlook for validation of the USEITI reports. Additional information is available in Mr. Mennel's presentation slides, available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/20160620_validation_case_studies_v_send_updated_1.pdf.

In response to Mr. Mennel's presentation, MSG members made the following comments and asked the following questions:

- Does the USEITI adapted implementation dispensation have a strict time limit? Does the USEITI plan for sub-national voluntary opt-in to USEITI potentially fulfill the requirement for sub-national participation? *Response from Sam Bartlett: The USEITI year 2 report (in 2016) will cover only 2016 and will thereby be covered by the adapted implementation dispensation. After the two-year dispensation, however, USEITI will need to have sub-national participation or apply for additional relief of some sort.*
- The USEITI adapted implementation request may have had two phases, with the first phase for sub-national opt-in and the second phase for reporting and reconciliation of sub-national revenues. The adapted implementation dispensation may not have been strictly time-limited, so this would need confirmation.
- If it is true that countries are waiting several years for validation due to delays from EITI International, is it possible that USEITI could be well on the way to mainstreaming by the time a US report is considered for validation? *Response from Sam Bartlett: There are fifteen validation requests overdue and they have been given priority by the International Board. That backlog will be cleared quickly. The Board will also take stock of the EITI financial situation in October 2016 and will thereby determine how many validations to undertake in 2017.*
- If the USEITI MSG decides to pursue validation of its 2016 report, could the International EITI Board meet that request? *Response from Sam Bartlett: To the extent possible, the International Board will strive to meet requests for expedited validation.*
- In terms of the likelihood for USEITI validation, in the past countries have been validated without fully meeting all EITI requirements and the presentation from John Mennel indicated that the EITI Board considers a scorecard holistically. However, Sam Bartlett has also indicated that a country needs to be "satisfactory" on all requirements in order to be validated. In order for USEITI to achieve validation, is "satisfactory" progress on each requirement needed or can is "meaningful" progress on some requirements sufficient? What are the requirements for validation? *Response from Sam Bartlett: All requirements have to be met. The EITI Board will make a final decision about a country's scorecard. The 2016 EITI Standard is quite clear that countries are required to have "satisfactory" progress on all requirements to achieve validation.*
- Prior to the 2016 Standard, the Board had more discretion to consider countries' reports holistically and validate them even if they had not met all of the requirements. The likelihood for the US report to be validated under the 2016 Standard is lower than it was under the 2013 Standard. *Response from John*

Mennel: Although there were countries that achieved validation without full compliance with company and revenue stream reporting, the gap that the US had in 2015 in terms of income tax reporting was quite significant. And the 2016 Standard sets a higher bar for validation.

- The International EITI Board ultimately decides whether a country is “EITI compliant,” correct? How is “compliance” with the EITI Standard different from “validation?” *Response from Mr. Bartlett: There are three stages to determine compliance: review by the International EITI Secretariat, review by an independent validator appointed by the EITI Board, and a final determination by the EITI Board.*
- The MSG is trying to guess at the intentions of the Board’s Validation Committee. The USEITI MSG has not been able to reach consensus about the disaggregation level of reporting and this may be a reason to be cautious about pursuing validation.
- There seem to be the following possibilities for USEITI pursuing validation: 1) submit the 2016 USEITI report for expedited validation; 2) submit for validation under the normal process, in which case the most recent report at the time of validation will be reviewed; or 3) request delayed validation.
- One additional consideration is that the 2016 Report would be considered for validation under the 2013 Standard whereas the 2017 report and later reports would be considered under the 2016 Standard.
- The USEITI MSG will have a better sense of the Board’s timeframe for validation after getting more information about the progress of the EITI fundraising campaign.
- Another validation risk is that the Board may not accept the USEITI definition of materiality. For next year, USEITI should expand the definition of materiality beyond only DOI revenues.
 - USEITI submitted its candidacy application under a definition of materiality that includes only DOI revenues.
 - *Response from Sam Bartlett: The Board is not limited to considering only the definition that was included in a country’s candidacy application. Doing so would discount any discussion or decisions that a country’s MSG makes after submitting its initial application.*
 - There are a number of companies in the mining sector that are not currently included in USEITI reporting because their payments to DOI do not meet the materiality threshold but that are voluntarily reporting their income tax payments. The Implementation Subcommittee should explore including these companies next year in order to help address the income tax reporting issue.
- The MSG needs to make a decision about how to handle state and tribal opt-in and, consequently, whether to submit another application for adapted implementation.

- The State and Tribal Opt-in Subcommittee should prepare a second request for adapted implementation. This application should state that USEITI is unlikely to ever undertake revenue reconciliation of state and tribal revenues.
- Mainstreaming could obviate the need for reconciliation.
 - *Comment from Pat Field, facilitator: We will need to clarify whether mainstreaming applies to all aspects of reporting or only to some aspects.*
- Given that the SEC has now released a rule for Section 1504 of the Dodd-Frank Act and that the 2016 Standard creates a pathway for mainstreaming, the real hurdle for validation facing USEITI is the level of participation in corporate income tax reporting. USEITI clearly meets or exceeds every other aspect of the Standard. USEITI needs to test what arguments it can make such that it can be successful even without the tax reporting. Could the case be made that USEITI is on a glide path towards validation given the release of rules under Section 1504? If the MSG decides that the US report is unlikely to be validated, the MSG should then consider whether it makes sense to continue expending the resources to meet the Standard. Instead, USEITI could consider pursuing the spirit of the EITI without strictly striving for validation.
- The rulemaking under Section 1504 is not a given. The SEC previously released final draft rules and those rules were blocked by a lawsuit. Given the political dynamics around these issues, that could happen again. Furthermore, even if the rules are implemented, tax reporting would not come into effect until 2019, which is three years away. The MSG should be very cognizant of the message that it would be sending about American exceptionalism in that they would have to undertake reconciliation while the US chooses not to do so. Other countries have enacted laws mandating reporting from companies and what the US does around this will have an impact in other countries.
 - The MSG needs to choose between focusing on domestic priorities and foreign policy goals. It cannot accommodate both simultaneously.
 - Another important precedent to consider is the robust level of CSO participation in the US process and the very strong and proactive involvement, particularly around unilateral disclosure, from the government sector.
- I am dismayed about the comments that the USEITI report would not achieve validation. We have a report that all sectors should be very proud of, particularly given the factors on the ground. It could be helpful to have our other EITI International Board member, Ambassador Warlick, participate in and help inform these discussions. USEITI needs people at the Board level who understand the discussions that the MSG has had and who can advocate on behalf of USEITI with the Board. I would like to reiterate the request that Ambassador Warlick attend USEITI MSG meetings in order to understand the USEITI process.

- *Sam Bartlett has communicated very clearly that countries are required to meet all of the requirements in order to achieve validation. He also said he is impressed about the work that USEITI has done.*
- Reconciliation is still very important for the US process. There are safeguards in place in the US system, and yet the impetus for this work in the US was the revelation about corruption at the former Minerals Management Service (MMS). *Response from a representative from the State of Wyoming: After the MMS scandal, Wyoming audited its revenue-sharing program with MMS and did not find any revenue misallocation. While there were cultural and behavioral problems at MMS, it does not seem that there were problems with revenue allocation and distribution.*
- There is still a chance that the US could achieve validation if more companies participate in income tax reporting in 2016.
- More so that income tax reporting, for which regulations will be implemented at some point, state and tribal reporting and reconciliation will continue to be a challenge and hurdle for implementation because the MSG ultimately has no control over subnational participation.
- An additional validation risk facing USEITI is the low level of public participation in the US process. *DOI Response: The US put forward resources for public engagement but unfortunately was not able to achieve robust engagement.*
- Patrick Field, facilitator, summarized the following potential validation risks raised by MSG members:
 - Sub-national reporting and reconciliation
 - Project level reporting
 - Definition of materiality
 - Tax reporting and reconciliation
 - Number of companies that participated in reporting
 - Community engagement

Greg Gould, Chair of the Implementation Subcommittee, proposed that the USEITI Secretariat work with the International Secretariat and the IA to explore the prospects and risks for USEITI validation and provide a recommendation to the MSG at the November 2016 MSG meeting. Mia Steinle, Project on Government Oversight, and Emily Hague, American Petroleum Institute, would serve as liaisons between the Secretariat and their sectors. The Secretariat will also maintain open communication with MSG members throughout the process.

IV. Public Comments

No public comments were offered at the June 2016 MSG meeting.

V. Wrap Up / Closing

Mr. Patrick Field, facilitator from the Consensus Building Institute, reviewed the action items and the decisions coming out of the MSG meeting. Decisions will be recorded in an updated MSG Decision Matrix by the Secretariat.

Mr. Gould, Ms. Kohler, Ms. Brian, and Mr. Mussenden, in their roles as Co-Chairs and the acting DFO, made closing comments to the MSG, thanking the MSG, associated staff, the USEITI Secretariat, and the IA for their hard work. Mr. Mussenden, Acting DFO, adjourned the meeting at 4:00 pm.

VI. Meeting Participants

The following is a list of attendees from the June 27-28, 2016 USEITI MSG meeting.

Chaired by Kris Sarri, Designated Federal Officer, and Paul Mussenden, Acting Designated Federal Officer, for the USEITI Advisory Committee, US Department of the Interior.

A. Participating Committee Members

Civil Society

Danielle Brian, Project on Government Oversight, USEITI MSG Advisory Committee Co-Chair

Paul Bugala, George Washington University

Lynda Farrell, Pipeline Safety Coalition

Keith Romig, Jr., United Steelworkers

Michael Ross, Natural Resources Governance Institute

Veronica Slajer, North Star Group

Government

Curtis Carlson, Department of the Treasury

Greg Gould, Department of the Interior, USEITI MSG Advisory Committee Co-Chair

Mike Matthews, State of Wyoming - Department of Audit/Mineral Audit Division

Industry

Stella Alvarado, Anadarko Petroleum

Phillip Denning, Shell Oil Company

Michael Gardner, Rio Tinto

John Harrington, ExxonMobil

Veronika Kohler, National Mining Association, USEITI MSG Advisory Committee Co-Chair

Johanna Nesseth, Chevron

B. Committee Alternates in Attendance

Civil Society

David Chambers, Center for Science in Public Participation

Daniel Dudis, Public Citizen

Government

Jim Steward, Department of the Interior

Industry

Chris Chambers, Freeport-McMoRan Copper & Gold Inc.

Aaron Padilla, American Petroleum Institute

C. Members of the Independent Administrator Team in Attendance

John Cassidy, Deloitte

Luke Hawbaker, Deloitte

Alex Klepac, Deloitte

John Mennel, Deloitte

Sarah Platts, Deloitte

Kurt Schultz, Deloitte

Jen Smith, Deloitte

Andrew Varnum, Deloitte

D. Government and Members of the Public in Attendance

Michael Blank, Peabody Energy

Troy Dopke, Department of Interior Office of Inspector General

Nicole Gibson, Department of State

Emily Hague, American Petroleum Institute

Jeannette Angel Mendoza, Office of Natural Resources Revenue

Mary McCullough, Chevron

Charles Norfleet, Bureau of Ocean Energy Management

Kathleen Richland, Department of Interior Office of Inspector General

Yvette Smith, Office of Natural Resources Revenue

Mia Steinle, Project on Government Oversight

Suzanne Swink, BP

Micah Watson, Department of State

Greg Weissman, Chevron

Lance Wenger, Department of the Interior Office of the Solicitor

E. Facilitation Team

Patrick Field, Consensus Building Institute

Tushar Kansal, Consensus Building Institute

F. DOI MSG Support Team

Nathan Brannenber, Office of Natural Resources Revenue

Jerry Gidner, Office of Natural Resources Revenue

Jennifer Goldblatt, Office of Natural Resources Revenue

Judith Wilson, Office of Natural Resources Revenue

VII. Documents Distributed

- MSG Meeting Agenda ([PDF](#))
- March 2016 MSG Meeting Summary ([PDF](#))
- 2015 Signed Annual Activity Report ([PDF](#))
- Updated USEITI Terms of Reference ([PDF](#))
- Coal Excise Tax Infographic ([PDF](#))
- AML Visualization ([PDF](#))
- Budget and Audit Visualization ([PDF](#))
- Montana State Opt-In Visualization ([PDF](#))
- Montana Enlarged Mock-Ups ([PDF](#))
- Data Portal Analytics ([PDF](#))
- 18f Development Process ([PDF](#))
- County Case Studies:
 - Boone, Logan, and Mingo Counties, West Virginia ([PDF](#))
 - Campbell County, Wyoming ([PDF](#))
 - Desoto Parish, Louisiana ([PDF](#))
 - Elko and Eureka Counties, Nevada ([PDF](#))
 - Humbolt and Lander Counties, Nevada ([PDF](#))
 - Marquette County, Michigan ([PDF](#))
 - Pima County, Arizona ([PDF](#))
 - St. Louis County, Minnesota ([PDF](#))
 - Tarrant and Johnson Counties, Texas ([PDF](#))
 - Greenlee County, Arizona ([PDF](#))
 - Kern County, California ([PDF](#))
 - North Slope Borough, Alaska ([PDF](#))
- Executive Summary Outline ([PDF](#))

**UNITED STATES EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE
MULTI-STAKEHOLDER GROUP ADVISORY COMMITTEE MEETING
NOVEMBER 16-17, 2016**

SUMMARY OF PROCEEDINGS

**U.S. DEPARTMENT OF THE INTERIOR
PREPARED: DECEMBER 2016**

I. Introduction

The U.S. Department of the Interior (DOI), with Paul Mussenden presiding as Acting Designated Federal Official (DFO), convened the nineteenth meeting of the U.S. Extractive Industries Transparency Initiative (USEITI) Multi-Stakeholder Group Advisory Committee (MSG) on November 16-17, 2016, in Washington, DC. The purpose of the meeting was to review and endorse the 2016 USEITI Report and Executive Summary; make decisions regarding the request for extending Adapted Implementation and the USEITI Beneficial Ownership Roadmap; approve the June 2016 MSG meeting summary, the USEITI MSG Endorsement of Open Data, and the 2017 USEITI Workplan; receive updates on the work of MSG subcommittees including the Implementation Subcommittee, Communications Subcommittee and the State and Tribal Opt-in Subcommittee; and discuss miscellaneous issues including Independent Administrator recommendations for 2017, lease-level unilateral disclosure, mainstreaming, and U.S. validation.

Please note that, throughout this meeting summary, comments made by presenters, Independent Administrator (IA) team members, other non-MSG members, and those directly pertaining to an MSG decision are attributed to specific speakers. Other comments are provided without attribution in order to foster open discussion among MSG members excepting final deliberations prior to specific MSG decisions.

Interested parties are asked to contact USEITI at useiti@ios.doi.gov or 202-208-0272 with any questions, comments, or concerns regarding the content of this meeting summary.

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II. Summary of Endorsements, Decisions, Approvals, Confirmations, and Action Items

A. Endorsements

- The MSG endorsed the 2016 USEITI Report, Executive Summary, and Appendix. *(see page 17)*

B. Decisions

- The MSG decided to submit the request for extending Adapted Implementation to the EITI International Board. The USEITI Secretariat shall transmit the document to the EITI International Board on or before January 1, 2017. *(see page 23)*
- The MSG decided to submit the USEITI Beneficial Ownership Roadmap to the EITI International Board. The USEITI Secretariat shall transmit the document to the EITI International Secretariat on or before January 1, 2017. *(see page 37)*

C. Approvals

- The MSG approved the June 2016 MSG meeting summary. *(see page 6)*
- The MSG approved the policy statement titled “USEITI MSG Endorsement of Open Data.” *(see page 17)*
- The MSG provisionally approved the 2017 USEITI Workplan, with final approval pending from the MSG Co-chairs. The USEITI Secretariat shall transmit the document to the EITI International Secretariat on or before January 1, 2017. *(see page 10)*

D. Confirmations

- No confirmations were made by the MSG at the November 2016 MSG meeting.

E. Action Items

➤ Co-Chairs:

- Review and distribute meeting summary from November 2016 MSG meeting to MSG members.
- Develop agenda for February 2017 MSG meeting.
- Invite auditors, ONRR staff, and company experts to explain and explore standard audit and assurance processes already in place by February 2017. *(see page 24)*

➤ Implementation Subcommittee

- Consider discussion of jobs data, multi-year metrics of progress, conversion to common energy units, and production data for some minerals like gold for 2017 report. *(see section beginning on page 12)*
- Discuss DOI audit procedures and their applicability to the reconciliation process at November 30, 2016 meeting, as well as timing and next steps; prepare presentation on these issues for February 1-2, 2017 MSG meeting. *(see page 24)*
- Review reporting of various streams of revenue, thresholds, and level of effort required for such reporting given past two year's experience by December 2016 or January 2017. *(see section beginning on page 27)*
- Consider including scope and margin of variance issues in the 2017 USEITI Report. *(see page 27)*
- Consider IA recommendations on improving efficiency of the reconciliation process. *(see page 28)*
- In preparation for the February 2017 MSG meeting, consider whether to add additional commodities by December 2016, consider and vet any new country case studies, and submit required materials to ONRR by January 2017. *(see sections beginning page 12 and page 28)*
- Begin implementing activities from the Beneficial Ownership Roadmap for 2017. *(see page 35)*
- Work on developing documentation to support USEITI validation, especially in more challenging areas. *(see page 42)*
- Implementation Subcommittee workgroups explore possible areas of agreement on which requirements could be classified as "green" versus "yellow." *(see page 42)*
- **Communications Subcommittee**
 - Prepare 2017 Communications Plan considering both 2016 outreach experiences and MSG input by February 2017. *(see section beginning on page 19)*
- **State and Tribal Opt-in Subcommittee**
 - Engage Colorado, North Dakota, and Pennsylvania as well as interested tribes. *(see page 21)*
 - Obtain final list of states and tribal opt-ins by April 2017, and advise ONRR on whether to exercise IA contract option. *(see page 28)*
- **Independent Administrator (Deloitte)**
 - Review whether DOI audit procedures would satisfy EITI reconciliation requirements, the relative cost-effectiveness of these audit procedures as compared to the current USEITI reconciliation process, and the timeline for implementing any revisions to the USEITI reconciliation process. *(see page 24)*
 - Consider whether careful review and description of DOI audit procedures might help demonstrate the potential for mainstreaming of USEITI reporting. *(see section beginning on page 24)*

- Prepare proposal for additional visualizations/topics for the 2017 Report to be decided by the MSG at the February 2017 meeting by December 2016 or January 2017. *(see section beginning on page 30)*
- Conduct mainstreaming feasibility assessment by February 2017. *(see page 37)*
- Explore whether there adjustments to scope and margin of variance could reduce the level of effort required of companies and the government. *(see page 27)*
- **General Services Administration (GSA) 18F**
 - Provide information to the MSG on where to find detailed implementation notes on the USEITI website. *(see section beginning on page 12)*
- **USEITI Secretariat**
 - Conduct initial desk audit regarding validation pre-assessment and discuss with the MSG. *(see section beginning on page 38)*
- **USEITI Process Facilitator (Consensus Building Institute)**
 - Distribute action items from the November 2016 MSG meeting.
 - Create a meeting summary for the November 2016 MSG meeting by December 2016.

III. Presentations and Key Discussions

Greg Gould, Co-Chair of the USEITI MSG Government Sector and Director of the Office of Natural Resources Revenue (ONRR) at DOI, opened the meeting and welcomed participants. All individuals in attendance introduced themselves. A full attendance list can be found in Section VI – Meeting Participants, page 43.

A. Welcome, Introductions, and Agenda Review

Paul Mussenden, Deputy Assistant Secretary, Natural Resources Revenue Management, DOI, provided opening remarks. He noted several key milestones that would occur in the meeting, including approving the second annual EITI Report. He also suggested that the upcoming political transition was likely on the minds of many MSG members, and that those in government were focused on making sure it will be smooth and orderly. He reminded MSG members that this would be the last USEITI MSG meeting of the current administration; for this reason Secretary of the Interior Sally Jewell and National Security Council Member Mary Beth Griffin would both be speaking to the group to thank members for their efforts.

Pat Field, facilitator from the Consensus Building Institute, then provided a broad overview of the agenda for the upcoming two days.

B. USEITI MSG Business

The MSG conducted the following items of business during the course of the MSG meeting.

1. Terminology and USEITI June 2016 Meeting Summary

Judy Wilson, USEITI Secretariat, reminded meeting participants that the MSG has agreed to employ three terms to differentiate between different types of actions that the MSG takes:

- “Decisions” will indicate significant actions and agreements by the MSG key to meeting EITI international standards.
- “Approvals” will indicate lower-level decisions by the MSG, such as approving work plans, meeting summaries, process changes or additions, etc.
- “Confirmations” will confirm decisions that the MSG has previously made.

The MSG approved the meeting summary of the June 2016 MSG Meeting. A copy of the final, approved meeting summary is available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/useiti_msg_-_june_2016_mtg_summary_v4_160913.pdf.

- **Approval: The MSG approved the meeting summary from the June 2016 USEITI MSG meeting.**

2. Update from EITI Board Meeting

Mary Warlick, Principal Deputy Assistant Secretary of State, Bureau of Energy Resources, U.S. Department of State and member of the EITI International Board Finance Committee, provided an update on the EITI Board meeting held in Kazakhstan in October 2016. She reported that it was a productive meeting that tackled a variety of issues, including internal governance, decision-making procedures, financial sustainability, and Candidate Status safeguard requirements.

Regarding internal governance issues, Ms. Warlick noted that the Governance and Oversight Committee, which she chairs, had been working to advance a series of reforms designed to help the organization function more effectively, including issues related to nominations for the next Chair of the EITI International Board, annual performance reviews for the Executive Director and Head of the Secretariat, and term limits for the Head of the Secretariat. The board conducted a performance review for the Head of the Secretariat in advance of the board meeting, and agreed to extend the term of the Head of the Secretariat for an additional two years until the end of 2018.

With respect to board decision-making procedures, Ms. Warlick noted that the board is a consensus-based organization but that there have been instances where members have not been comfortable with the nature of the consensus achieved. The Governance and Oversight Committee developed suggestions for providing greater clarity around how decisions are made. Most of the committee’s resolutions on the issue were approved. The Oversight Committee is now working to clarify language in the board manual and drafting amendments to the relevant articles.

With respect to financial sustainability, Ms. Warlick noted that identifying sustainable funding sources for the EITI Secretariat represents a key challenge. While supporting countries have dedicated substantial funds to supporting EITI efforts, much of this has been distributed through a World Bank trust and through bilateral aid programs. The U.S. has not put money into funding the Secretariat even as there is a feeling that the Secretariat is taking on an increasing amount of work, in particular related to validation. The Board discussed how to obtain agreement on a minimum or mandatory funding level. Companies agreed to provide a range of \$20,000-\$60,000 in support depending on the size of the company, but the country constituencies were more divided. The U.S. would not commit to mandatory country contributions absent an expenditure review mechanism being put in place, even though the U.S. wants to support the EITI Secretariat and recognizes that the Secretariat's work is important and impactful. The U.S. hopes to make annual contributions for one to two years going forward. The U.S. also expressed a desire for the Secretariat to seek additional funding from foundations.

The board meeting also included a number of discussions on candidate status safeguard requirements. In advance of the meeting, Azerbaijan had taken a number of positive actions, for example dropping criminal charges against members of civil society. But the board still determined that Azerbaijan had not met EITI's civil society standards. John Harrington from Exxon Mobile, who also attended the board meeting, added that validation for Azerbaijan was not a close issue because the country had taken key actions only days before the board meeting. Ms. Warlick noted that the board was requiring Azerbaijan to take additional actions prior to the next board meeting to maintain its candidate status.

Ms. Warlick added that board members expressed concern about whether countries that have recently been validated — such as Mongolia, Indonesia, Peru, and Timor Leste — would be able to meet Candidate Status safeguard requirements moving forward. Similar concerns were expressed regarding the fourteen additional countries that will be ready for review in February 2017, and the seventeen country validations that will be initiated in 2017. There are concerns that a number of countries may eventually face suspension. Some board members suggested that it will be important to look to successful countries for lessons learned.

MSG members made the following comments and asked the following questions following Ms. Warlick's presentation; *Ms. Warlick's responses to questions and comments are indicated in italics*:

- Countries are facing the application of new safeguards and are wondering what they mean. Countries must make satisfactory progress on all four key components of the safeguard requirements in order to avoid triggering a decision on whether they will be de-listed. Countries are facing significant challenges on the civil society engagement component, even though the meaning of this component is not fully defined. Eventually, the board will need to consider the criteria for this component more fully. However, with respect to

Azerbaijan, this was not a close issue. *The EITI Board will have to reassess this situation in a few months.*

- Civil society safeguards are very important and are also a significant cause of challenges to validation. Are there lots of examples of other countries where the civil society situation is as extreme as in Azerbaijan, or is the issue generally less significant elsewhere? *Everyone agrees that civil society engagement is central to EITI. Requirement 8.3(c) is the new standard; it was altered last year and gets revised every three years. While it is important to set high standards and Azerbaijan clearly had more work to do on this issue, the jury is out regarding the rest of the validations. If nine out of every ten countries end up not meeting the standard, then it might be necessary to reevaluate the grading.*
- Countries are concerned about what happens if a government does all it can to open up space for civil society, but civil society groups still do not participate in the EITI process. While some countries have definitely closed civil society space, in others it is not clear how to evaluate the lack of civil society engagement.
- What are other Board members asking about or commenting about regarding the candidacy of the U.S.? *There is interest in how the candidacy of the U.S. is progressing, and concerns about how the U.S. will meet some requirements. However, there is a broad cross section of countries that have expressed appreciation at the assistance the U.S. has provided and that have suggested USEITI is a model.*

3. Workplan

Chris Mentasti, ONRR, reviewed the 2017 USEITI Workplan. He noted that the MSG is required to update and approve its workplan every year. The workplan must be linked to EITI principles, reflect the results of consultations with stakeholders, involve measurable and time bound activities, identify funding, be available to the public, be reviewed and updated annually, and include a timetable for implementation that is aligned with reporting and validation deadlines. Mr. Mentasti then proceeded to review the various sections of the workplan narrative.

Mr. Field suggested that participants pay special attention to the list of goals for 2017 appearing on page 7 of the draft workplan. Participants offered the following comments and asked the following questions; *responses from Mr. Mentasti are in italics:*

- Veronica Slajer, North Star Group, suggested it would be helpful to institutionalize some of the language in the workplan, so it is not connected to any particular administration.
- Lynda Farrell, Pipeline Safety Coalition, suggested adding clarity to the first sentence in the background section, to avoid suggesting the initiative began in 2011.
- Dan Dudis, Public Citizen, suggested adding a goal around redefining the universe of companies that are considered “in scope” through some other means besides the 80% of revenues approach. He suggested the current list of companies is heavy on oil and gas, and light on mining.

- Mr. Harrington concurred with this request. He added that the goal should be to reevaluate the basis for selecting companies for inclusion in reporting.
- Danielle Brian, Project on Government Oversight, suggested this approach could involve reviewing the materiality threshold, which is based on payments to ONRR. *Mr. Mentasti commented that he believed that is how this issue is currently phrased in the document.*
- David Romig, Freeport-McMoRan Oil & Gas, requested that the third bullet on page 8 be changed from “pre-feasibility” to “feasibility.”
- Paul Bugala, American University, asked whether there might be additional detail about the beneficial ownership process in the more detailed work plan. *Mr. Mentasti replied that all of the action items at the end of the beneficial ownership section were included in the narrative draft.*
- Mr. Mussenden suggested adding a bullet under national priorities stating “Leadership by example.”
- Ms. Slajer commented that it might be helpful to mention work that has been done with other countries, for example the bilateral work with Mexico, and note that this work is continuing into 2017. *Mr. Mentasti replied that this work is mentioned in the document in general terms.*
- Mr. Mussenden suggested adding a bullet under “funding and resource constraints” to request “any funding required to support validation,” generally, in order to reflect a small, \$10,000 contribution for validation. Mr. Gould noted that the desire is for this funding to be an annual payment.
- Mr. Romig asked whether, given that the MSG had discussed new work streams related to reviewing margin of variance, adding information to data portal, and other issues, it might be necessary to add those items into the workplan.
 - *Mr. Mentasti replied that it is possible to tentatively approve the document and then add these items after the fact.*
 - *Mr. Field clarified that the MSG can provisionally approve the workplan and then the Co-chairs can approve it with these additions.*
 - *Mr. Harrington added that it is a living document that is frequently changing.*

The 2017 USEITI Workplan was provisionally approved, pending the Co-chairs’ final approval.

- **Provisional approval: The MSG provisionally approved the 2017 USEITI Workplan, with final approval pending from the MSG Co-chairs. The USEITI Secretariat shall transmit the document to the EITI International Secretariat on or before January 1, 2017.**

4. Committee Member Retirement

Mr. Gould announced that Mr. Harrington would be retiring and leaving the MSG. Mr. Gould and other committee members thanked Mr. Harrington for his service and wished him the best.

C. Comments from Senior US Government Officials

Two government officials — Sally Jewell, Secretary of the Interior, and Mary Beth Goodman, Special Assistant to the President and Senior Director for Development and Democracy, National Security Council — offered comments to the MSG on the value of its work.

1. Remarks by Secretary Sally Jewell

Secretary Jewell offered remarks thanking the MSG for its work, praising the USEITI website, and noting the importance of the accomplishments and mission of the MSG. A full transcript of Secretary Jewell's remarks can be found in the appendix beginning on page 45.

2. Remarks by Mary Beth Goodman

Ms. Goodman provided additional words of thanks to the MSG. She noted that as a Senator, President Obama was inspired by EITI and its potential to transform economies in developing countries. There has been a huge amount of progress in the intervening years. When the Administration entered office there were 30 countries implementing EITI, mostly in the developing world. Now there are 51. The U.S. was the first of the world's major economies to announce its participation, and the results have been transformative.

Members of the MSG have been trailblazers in this effort, and have helped both to transform how we convey information in the U.S., and to expand and broaden EITI internationally. Internationally, President Obama has announced that this effort is part of an open government partnership, which involves seven heads of state. Within this partnership, there is a significant body of work involving private sector, civil society, and governments in anti-corruption efforts related to extractives. The USEITI online portal will be displayed at the next open government partnership meeting in December.

Ms. Goodman concluded by noting that she looks forward to hearing more about the MSG's work in the future.

D. Review and Approval of 2016 EITI Report and Executive Summary

Members of the Independent Administrator (IA) team from Deloitte and the team from GSA 18F provided updates on the reporting and reconciliation process and the 2016 EITI Report and Executive Summary. These updates and accompanying MSG discussions are summarized below.

1. Review of 2016 Reporting and Reconciliation

Alex Klepacz, IA team member from Deloitte, presented on the 2016 Reporting and Reconciliation Results. He noted that 25 companies reported and reconciled revenues out of 41 that were eligible, 12 companies reported taxes out of 38 eligible, and 7 out of 38 reconciled taxes. There were 21 explained variances, no unexplained variances, and 10 companies with variances. Compared to 2015, fewer companies reported and reconciled revenues, the same number reported taxes, and a greater number reconciled taxes. In 2016, 79% of total government non-tax revenue for in-scope companies was reconciled, versus 81% in 2015. Additional information is available in Mr. Klepacz's presentation slides, available online at: [XXXX].

MSG members made the following comment and asked the following question following Mr. Klepacz's presentation; *Mr. Klepacz's response is indicated in italics:*

- Are the types of variances recurring, such as the timing issues that have occurred in the past, or are there signs that companies are learning to avoid them? *There was a new issue this year with pay.gov. BP corrected it and others will do so as well. However, the other variances are not new issues. They include timing issues and accounting issues such as royalties being placed in the bucket of bonuses.*
- In terms of the degree of eligible reporting by companies, the data look fairly consistent from 2015 to 2016. Given market conditions and the number of companies in bankruptcy, keeping these numbers fairly even should be considered an accomplishment.

2. Review of Executive Summary

Sarah Platts, IA team member from Deloitte, reviewed updates to the 2016 Report and Executive Summary. She noted that the 2016 Executive Summary is significantly abbreviated as compared to the Executive Summary in the 2015 USEITI Report. New sections in this year's summary include state and tribal opt-in information and three new additions approved by the MSG: abandoned mine lands (AML) visualization, coal excise additions, and audit controls processes in the U.S. At the start of each section there is a callout box that explains how to find more information in the full report online. The review process for the Executive Summary involved distributing multiple iterations to the Implementation Subcommittee, the Co-chairs, and the Online Advisory Workgroup for their review and feedback.

Mr. Gould expressed thanks to Ms. Platts, and reminded MSG members that the majority of the information from last year's report is still available online. He suggested that the combination of the brief Executive Summary and the larger online report represents an excellent way to provide information to the public.

Mr. Mussenden asked the group for feedback or suggestions on the 2016 Executive Summary, and MSG members offered the following comments:

- Moving forward, more should be done to make sure MSG members all agree that the Executive Summary and the online portal accurately reflect their

thinking. For example, in the Contextual Narrative Subcommittee, there was a decision to break out jobs in extractives by commodity at the state and national levels, but this is not reflected in the Report. Jobs are the first issue that comes up in public outreach sessions.

- The Executive Summary is very strong. Moving forward, USEITI should develop a page where readers can see how many companies were eligible each year, how many reported, and what their revenues and taxes were. This would help readers identify overall trends and see whether participation is increasing.

3. USEITI Report/Data Portal

Michelle Hertzfeld and Corey Mahoney, GSA 18F, reported on progress and updates to the full 2016 USEITI Report and Data Portal. Ms. Hertzfeld noted that the website had benefitted from significant improvements over the past year, including process improvements that allowed the design team to get new usable information up on the site. She noted that because the MSG only meets two to four times a year, the Online Advisory Workgroup served a critical role in providing quick feedback, allowing the 18F development team to continuously test and add new information and develop new features.

Ms. Mahoney, a content designer with 18F, demonstrated various portions of the website. She noted that she and the other members of the team at 18F are very proud of the site and excited about what it can do. She explained that in a previous iteration, the website was organized by dataset. This confused users, who for the most part did not understand the datasets. Now, the site's "Explore Data" function is organized by location. The team discovered that users are interested in exploring data about the region in which they live. Currently, there is a national profile page and a series of regional profile pages.

Ms. Mahoney showed the page for Texas to the MSG, demonstrating how the page includes all location based datasets, walks users through these datasets in a logical way, and pulls in relevant contextual information. There is also improved mobile navigation and display, and connections between the state profiles and nearby offshore areas and case studies.

Ms. Mahoney suggested that the state profile pages are well set up to manage information coming from opt-in states. For Wyoming, Montana and Alaska the state-level data is incorporated seamlessly. There is also deep contextual information in a state governance section at the bottom of the page, and new color schemes and glossary items. Users can click on maps, expand them, see what numbers correspond to the maps, and see full tables of relevant information. The maps update by year.

There is also a "How It Works" section, which now has more of a Q&A format. This section contains all information that is non-location based, such as the AML reclamation program, company excise tax information, and audit and controls information.

Lastly, there is a “What’s New” section, which summarizes what is new on the website.

Ms. Mahoney offered an explanation of the data on revenue, economic impact, and jobs. She noted that the revenue data has lots of contextual information, which was confusing users, so there is now a chart that organizes revenue according to process. The chart includes pre-production revenue, during-production revenue, and actual rates. For revenue from production on federal land, there is data down to the county level. There is a state revenue section, but in most cases contains no information, except for the three opt-in state pages. There are data on ONRR disbursements back to the state and, if relevant, the data are out by offshore and onshore disbursements. There are economic impact data mostly down to state level, covering the full state, not just federal lands. There are two types of jobs data: data on wage and salary jobs down to county level, and self-employment data at the state level only.

In the discussion following Ms. Hertzfeld and Ms. Mahoney’s presentation, MSG members made the following comments and asked the following questions, organized by theme; *direct responses to questions and comments are in italics, with the speaker indicated, as relevant.*

Clarifying questions

- Mr. Mussenden asked for clarification on the source of the underlying data activity at the state and county level. *Luke Hawbaker, IA team member, replied that they come from state and county level governments.*
- Mr. Mussenden next asked where production-level data is located on the website. *Robert Kronebusch, ONRR, answered that it is located in Explore Data ➔ Production. It comes from ten years of data from ONRR Form 2014, reported to ONRR in its production and royalty reports. Royalty reports by county are also available in the USEITI Report.*
- Mr. Mussenden asked whether production on state land is included.
 - *Mr. Kronebusch replied that it is not included, at least not from federal ONRR sources.*
 - *Ms. Mahoney added that there are a number of different production data sets that feed into the USEITI Report. They have production on all lands, US Energy Information Administration (EIA) datasets, and federal lands production. In each section, they have a data and documentation link to detailed notes on where data comes from, data sources, and how they used the data.*
- Mr. Mussenden asked whether this information can be accessed both through the location-based portion of the site and through “Explore Data”; *Ms. Mahoney replied in the affirmative.*

Overall impressions

- Mike Matthews, State of Wyoming, noted that the website has exceeded expectations, in particular through its very usable and accessible use of rolled up data, and policymakers have begun referring to it already.
- Stella Alvarado, Anadarko Petroleum, added that the website is excellent and that it is especially helpful to put so much information on one page. She suggested it will benefit research, analysis, and policymaking.
- Betsy Taylor, Virginia Polytechnic Institute and State University, suggested it is important to let the public know about the limits of the data, and whether it is confusing or potentially inaccurate. She added that it would be helpful to have more of an indication of the category of the state level information, such as whether it is from the coal or natural gas sector, and that the state level data should also include renewables. Next year, she said, USEITI should give some more careful consideration on how to present this data. Ms. Taylor also suggested it would be helpful to obtain notes from 18F on how decisions were made on what datasets to include on the website. *Ms. Hertzfeld promised to direct the MSG to the portions of the website that contain this information.*

Jobs and revenue data

- Danielle Brian, Project on Government Oversight, asked whether jobs are identified. *Ms. Mahoney answered that jobs appear under "Economic Impact." If extractive industry jobs comprise more than 2% of state employment, that number is noted on the state page and there is a link to that data for the state. State pages will also note any significant "all lands" production information, and make note of the profile of landownership in the state. If a state ranks in the top five among states in production of any resource, that resource is listed on the state page. There is information on energy production across the state regardless of land ownership, and ten-year trend lines that update automatically. The state pages also include federal land production, for which there is county level data.*
- In response to a question from Mr. Mussenden on whether it is true that data from the state and county come from production on federal lands, *Ms. Mahoney answered yes, and Mr. Kronebusch added that the state data come from EIA. Ms. Mahoney further added that the EIA data generally do not include county level data.* Ms. Brian asked whether the economic impact data are for all extractives, not separated by commodity.
 - *Ms. Hertzfeld replied yes, and noted that they were uncomfortable using the commodity categorizations because they were different from what appears on the site elsewhere.*
 - *Mr. Hawbaker added that the datasets used for the "Economic Impact" section are very rarely broken out by commodity.*

Unit conversions

- Mr. Matthews suggested it would be helpful to add a feature allowing users to convert MBTUs to megawatt hours generated, which would make it possible to

compare the cost of production of coal versus natural gas using the same units. *Ms. Mahoney replied that the website does not currently offer unit conversion, although it does have definitions of units. She suggested this is an area where they could improve usability going forward.*

- Mr. Dudis added that convertibility is important, but comparisons among energy types should not just be about price. There are other things that are important to the U.S.'s energy mix beyond just cost.
- Ms. Farrell suggested that for civil society, until USEITI takes into account the full spectrum of what "cost" means, the website needs to be clear about the limits of what it presents. Any cost analysis on the site should be clearly defined.
- Mr. Romig suggested that USEITI's focus should be on transparency of revenues as it relates to payments to the government, not other issues like cost.

Transition from 18F to the Department of Interior

- Paul Bugala, American University, asked about what challenges are expected in light of the upcoming transition of creation of the USEITI Report from 18F to the Department of Interior, and what is being done to make sure the data remain as useful in the future as they are today.
 - *Mr. Gould commented that there should not be any changes. They do not intend to change the data gathering process or the technical expertise of the staff.*
 - *Ms. Hertzfeld added 18F will be working closely with the Department of Interior over the next fiscal year to help ensure a smooth transition.*

Usability

- Betsy Taylor, Virginia Polytechnic Institute and State University, commented that the portion of the site that helps users navigate other websites is very helpful, and suggested a chat room would be another helpful addition. She also suggested they should consider the reusability of the info-graphics and the site overall. Currently, screen capture is the only way to capture some of the charts for use in Powerpoint. They should make it easier to reproduce the charts and print them out. *Ms. Hertzfeld replied that they are working on this last issue and that there are a few upcoming improvements but that these suggestions will need to be discussed further.*
- Ms. Brian asked whether it might possible to provide production data at less aggregated levels, as aggregated data is less useful.
 - *Ms. Hertzfeld replied that the ability to provide something less aggregated depends on the type of production data.*
 - *Ms. Mahoney added that there are two datasets. First, there are EIA data, which were available previously, and are nationwide for energy commodities only. Second, with EITI, they now have data on production on federal land down to the commodity. They have data on a lot of*

commodities, but on each state page they only show the commodities available in that particular state.

Non-royalty bearing commodities and USGS data

- Mr. Gould asked whether the production data include only royalty bearing commodities, and Ms. Brian added that there is a concern that they may be inaccurately representing that production is not occurring just because there is no revenue data. *Ms. Mahoney replied that they have been as careful as possible about the phrasing on this issue. For example, they have said, "There are no data about production of gold and silver on federal lands."*
- Ms. Brian noted that USGS collects some data on non-royalty bearing commodities, and asked whether they could include that data in some form.
 - *Mr. Gould noted that the USGS data are accurate but not complete.*
 - *Ms. Mahoney added that they have discussed linking to the USGS pages.*
 - *Ms. Hertzfeld noted that the USGS data are released in the form of research reports in pdf form and with each commodity structured differently. She suggested it would be extremely labor intensive to integrate these data into the USEITI report without obtaining the data in a machine-readable format.*
- Ms. Brian asked whether it would be possible to speak with USGS to see if it has a dataset they could use. *Mr. Gould responded that the USGS data are typically compiled for research reports, and they may be many years out of date. The USGS reports provide useful historical data, but they are less useful as a source of yearly summary data.*
- Mr. Mussenden commented that considering the value of the USGS data, it might be helpful to better understand the data's shortcomings and how they could be enhanced. *Ms. Mahoney responded by noting that they link to the USGS data when possible and when they're available, for example in the contextual information for some opt-in states in contextual information. They have not found a way to do this programmatically for every state.*
- Mr. Dudis suggested that instead of saying there are no data for commodities like gold and silver, it might be more accurate for the site to say "N/A." He also asked why there are data on the site about obscure minerals, but not gold and silver. *Mr. Gould noted in response that they have information for royalty-bearing minerals on federal land, not minerals governed by statutes that do not require royalty payments to mine. The Mining Act does not require them to collect royalties, but all of those other obscure minerals are royalty bearing. And there is a lot of state production for which they do not receive revenue.*
- Ms. Taylor suggested that going forward they should conduct a systematic evaluation of the quality of the data, and bring key decisions to the MSG. She noted her concern that the pressure to get data up on the portal has led to quiet decisions on data quality, which has meant some data are not considered publicly available. If data that do not rise to the standards do not appear on the

website, it makes it look like that data do not exist. She suggested they need a more systematic and thorough conversation on how to grade quality of data.

- *Mr. Field commented that the MSG had long conversations in previous years on USGS data, as well as the jobs data. Those were transparent decisions made by the MSG.*
- Ms. Taylor responded that when there is in fact production and they are simply not using a data source, they need to be careful not to represent that there is no production.

Final comments

Mr. Mussenden thanked the design team for reviewing the online report and the data with the MSG. He expressed excitement at how the website has been continuously improved and allows the MSG to respond in real time to user needs, and suggested that the report is less a final product than an evolving model for how to enhance public access to information. Even though the hard rock minerals data are incomplete, they can still generate important debate among users. Other countries, like Germany and Mexico, as well as EITI International, are already using the USEITI site as a model. The value of what the MSG and the design team have accomplished is being validated. The MSG then endorsed 2016 USEITI Report, Executive Summary, and Appendix.

- **Endorsement: The MSG endorsed the 2016 USEITI Report, including the online report, the executive summary, and the appendix.**

E. Meeting the EITI 7.1B Open-Data Requirement

Judy Wilson discussed and presented a draft USEITI MSG Endorsement of Open Data policy document. Under Requirement 7.1.b, which will come into force on December 31, 2016, the EITI International Board will require MSGs to “Agree on a clear policy on the access, release and re-use of EITI data.” Ms. Wilson noted the key components of the USEITI approach to open data, including a January 2009 memorandum on rapid and accessible disclosure, a May 2013 Executive Order on open and machine readable government information, a December 2013 national action plan on open government, and a February 2015 discussion on open government data principles as the standard for contextual data in the USEITI Reports. Additional information can be found in Ms. Wilson’s presentation slides, available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/eiti_open_data_requirement.pdf.

Ms. Wilson suggested one minor revision to the language in the draft USEITI MSG Endorsement of Open Data, and requested the MSG endorse the policy with this revision. Ms. Johanna Nesseth, Chevron, suggested adding a sentence on documentation of which datasets are being used and why. With these two changes, the MSG approved the Endorsement of Open Data.

- **Approval: The MSG approved the policy statement titled “USEITI MSG Endorsement of Open Data.”**

F. Communications Subcommittee Update

1. Results of October Montana and Louisiana Outreach

Veronika Kohler, National Mining Association (NMA) and Chair of the Communications Subcommittee, reported on the outreach and listening sessions the subcommittee has implemented. She noted that the MSG is now conducting what it terms “listening sessions.” On September 15, 2016, it conducted a session with Congress to showcase the USEITI report. The overall reaction was positive, and participants asked thoughtful questions on a variety of topics from USEITI’s relationship to Dodd-Frank to the selection of the materiality threshold.

There were two listening sessions in Montana from October 5-6, 2016, and another listening session in Louisiana on October 19, 2016. The sessions were used to highlight the case studies that the subcommittee believed would attract greater participation. The Communications Subcommittee publicized the events through flyers, email lists, local media contacts, and social media blasts, and worked with the State and Tribal Opt-in Subcommittee. The Communication Subcommittee’s email list alone now has over 600 personal and organizational recipients. The Communication Subcommittee also distributed information to roughly 20 local organizations.

Although there were good discussions in these meetings, the level of participation is still lower than they want. Ms. Kohler suggested it is possible they may not be doing a good enough job disseminating information, but noted that they engaged in substantial additional effort and it did not result in additional participation.

2. Status of 2016-17 Communications Strategy

Ms. Kohler suggested that the MSG might rethink its strategy for outreach and the listening sessions. She noted that the Communications Subcommittee tried to be strategic in its outreach and planning for the Montana and Louisiana listening sessions, for example by making them easy for participants to attend, holding them at convenient times, and engaging with local leaders or conveners, but these approaches did not increase the level of public participation as compared to the previous round of outreach sessions. The subcommittee might need to consider overhauling its approach. For example, it might opt not to send representatives from all sectors, it might utilize the MSG more, or it might rethink which stakeholders to target. Additional information can be found in Ms. Kohler’s presentation slides, available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/outreach_communication_presentation_nov2016_msg.pdf.

Ms. Kohler highlighted three main questions for future consideration:

- How can the Communications Subcommittee address limited turnout? Should it use forums with built in audiences?
- What kind of focused advertising works best on the local level?

- Which stakeholder groups is USEITI trying to attract, people from the county, students, members of Congress, or others?

During the facilitated discussion following Ms. Kohler's presentation, Mr. Field suggested participants think about successful meetings where lots of people have shown up, and the factors that made these meetings successful. MSG members made the following comments, organized by theme; *direct responses from Ms. Kohler are indicated in italics.*

Messaging

- People show up when they are angry about something, when there is a decision about to be made, when there is controversy surrounding an issue like corruption, or when the meeting involves something very local and directly connected to them. It is hard to get people to come out to "good news" events. Unless there is interest in both the subject matter and the people involved, meetings are unlikely to succeed. For these reasons, USEITI should try to directly link its information to a local policy issue or ongoing policy conflict, in which the data could help create a platform for debate. However, it should avoid being locked into any one controversy. In addition, it should message by geography and demographic, and not publicize using a one size fits all model.
- Targeting people through organizations can be effective. People may be open to new ideas or points of view endorsed by organizations with which they are affiliated. In addition, in the current political climate, communities likely will be paying a lot more attention to how development is conducted. This may present an opportunity for USEITI to foster increased interest in its work.

Advice for more effective meetings

- USEITI should explore engaging in preexisting events, conferences or public meetings, and working with partner institutions such as a local university, local representatives at a high school, or a rotary meeting. However, it should be aware that partnering and joining other events involves a longer planning timeline. In addition, industry representatives may have greater difficulty reaching out to people and getting on a meeting agenda as an EITI member, and it may be easier using a different rationale.
- The best events on complicated policy issues are held in Washington, because people in Washington understand what you are talking about and they know how to translate it back to their constituents back in the states. It is difficult, and more resource intensive, to do events outside Washington even if you use a local partner.
- The Communications Subcommittee should market its meetings by highlighting data of local concern, like the number of jobs created in your county, or the money being brought into your county. *For these most recent sessions, the*

Communications Subcommittee created one-pagers with this kind of information, and it was not effective in increasing participation.

- How does the Communications Subcommittee currently work to keep those people who do show up engaged? *The subcommittee uses sign up sheets at all events and if someone calls in it gets their information and puts them on its email list. Except for in Louisiana and with Congressional outreach, for the most part there have not been repeat attendees.* An MSG member suggested that instead of providing a flier that provides answers, the Communications Subcommittee could ask provocative questions like, “How many jobs have been created?” or “How much money is being generated and how much is coming back?”
- The Communications Subcommittee should do more to document the discussions at the listening sessions, so it can share the key messages that come out or the controversies that interest people with the MSG.

Representation at USEITI meetings

- The MSG may want to revisit the Terms of Reference stating that individuals should not represent the EITI process, so that all subsectors do not need to be represented at every outreach event. Historically, civil society and industry come from different perspectives, with industry trying to justify the value of its work to local communities, and civil society groups being somewhat hostile to industry interests. Over the past few years, members have built a lot of trust within the MSG, and at this point USEITI may be able to have representatives speak across constituencies, for example civil society could speak to the role of industry. *The subcommittee has not proposed this yet, and if it did so it would come back to the MSG first for input. The subcommittee may have a proposal on this issue in February.*

Targeting stakeholders

- USEITI should consider whether it is engaged in a “wholesale” or “retail” activity in collecting and disseminating information, and target more specific sets of stakeholders. It might try to speak more directly to undergraduates, graduate students and others in the communities and states it is working in who may have the time to actually use the data and but do not know it exists. USEITI could also ask university professors to integrate it into their work. Graduate school professors are always looking for datasets for their students to mine and analyze. Other potential target stakeholder groups include policymakers in Washington, DC or state capitals, legislative staff, state civil society, auditors, and landowners interested in pricing data.
- USEITI should explore developing partnerships with schools and universities. However, there is a question as to whether USEITI can go directly on campuses. USEITI cannot go on private campuses, but it may be able to go on public university campuses. The issue is about receiving gifts. However, USEITI has engaged in some outreach to universities. It has developed a list of deans at

particular schools, focusing on 18 priority states, and sent out emails. There may be a need to reach out in a more personal way, such as by phone.

- As USEITI moves forward with this work, it will be critical for MSG members to use their existing networks. For example, with Alaska and Wyoming in 2017, USEITI should put MSG people in the lead who are from those states.

G. State and Tribal Opt-in Subcommittee Update

1. Report Out and Update on Engagement with States and Tribes

Danielle Brian, Project on Government Oversight (POGO), Co-Chair, provided an update on engagement with states and tribes. Ms. Brian thanked MSG members for helping get Alaska, Wyoming, and Montana to agree to opt in to USEITI. She asked MSG members to reflect on which states it should be targeting in the future. For example, last year they connected with a representative from North Dakota who was enthusiastic about further engagement, and North Dakota already has a lot of information online.

Ms. Brian provided an update on tribal opt in. She noted that the Subcommittee recently had a meeting with the Blackfeet Tribe, which invited them to come back for a day-long meeting to talk about what opt-in would mean. They are also planning to try to reengage with the Osage tribe in 2017, which has expressed interest. They are hopeful there will be at least one tribe opt-in in 2017.

MSG members made the following comments and asked the following questions; *direct responses to questions and comments are indicated in italics, with the speaker indicated, as appropriate:*

- USEITI should target specific contacts. Dennis Roller, state auditor for contracting in North Dakota, should be its next target for engagement in North Dakota. Rinn Peterson from Colorado is another potential contact.
- The MSG should continue to use the process that Deloitte has developed for state and tribal outreach. How many states are in the Deloitte contract? *Deloitte representative: The current contract has three states and five total if tribes are included.*
- The USEITI should consider counties that stood out when MSG members were conducting calls to states about counties that were going to be featured, and use the information and contacts it gained from those calls. However, it is hard to say definitively which stood out without documentation. *Ms. Brian: In addition, there is a goal to target more East Coast states because currently USEITI is concentrated in the West.*
- USEITI should think about using a regional approach, since pipelines cross state lines.
- If there is interest from states outside the list of 18 states, could those be brought to the subcommittee? For example, in Virginia parts of the state would be very interested. *Yes, the subcommittee would not turn people away.*

2. Presentation of Request for Extending Adapted Implementation

Mia Steinle, Project on Government Oversight, summarized a draft document being developed to request an extension of Adapted Implementation for USEITI's subnational and tribal opt-in. She noted that the MSG is requesting an extension for subnational reporting to the EITI International Board in light of the barriers to getting all states involved in USEITI. The document also notes that tribes are not subnational governments in the U.S. and USEITI does not believe they fall under the scope of EITI. Because the international audience might not understand the structure of tribal governance and sovereignty in the U.S., and why tribes should not be part of EITI unless they agree to it voluntarily, the document tries to lay this case out carefully.

The document also attempts to show how and why the MSG's view of what opt-in entails has evolved. Before, they had outlined three steps to the process: first they establish a point of contact, second they get a state member on the MSG, and third they move forward with enhanced opt in. Now, they no longer believe they can have members of subnational governments on the MSG because it would not be possible for the MSG to function with an additional 50 members. They have worked and will continue to work to ensure that subnational governments are involved even if they are not on the MSG, and the document describes the various degrees of engagement by Alaska, Wyoming, and Montana.

Jerry Gidner, Office of Natural Resources Revenue, provided further detail as to why tribes cannot be considered "subnational entities" under EITI standards. Tribes are sovereign entities and own their mineral resources. When the federal government collects revenue on these lands, it does so as a trustee and directs all of it back to the tribes. This trust responsibility prohibits the federal government from releasing data or compelling the tribes to release it. The document also notes important progress that has been made on these issues, such as the fact that three tribal governments have representatives on the MSG, and reports that they are in continued discussions with tribes.

MSG members made the following comments and asked the following questions; *direct responses to questions and comments are indicated in italics*:

- Mr. Mussenden commented that initially they referred to this as a request for partial adapted implementation because they can satisfy the requirement for disclosure of payments from the federal government to states. He noted that, in the document, he did not see much discussion of this fact.
 - *Ms. Steinle replied that they took the relevant language from the USEITI candidacy application and bolded the relevant portions of the requirement.*
 - Mr. Mussenden added that USEITI can satisfy the language in Requirement 5.2(a) because USEITI fully discloses transfers from the federal government to the states. He suggested noting this in the request for adapted implementation.

- Mr. Romig suggested that they should include in this request more about voluntary reporting and the government's move towards unilateral disclosure. Unilateral disclosure is a strong pillar of their application process, he suggested, and they have built most of the website around it.
- Mr. Harrington noted that since the U.S.' validation has been deferred until 2018, USEITI may want to look at this issue more closely next year and see if it can make the argument persuasively. *Ms. Steinle responded that this is a renewed request for an extension and it doesn't include a specific date.*
- Mr. Mussenden asked whether there was a decision to separate out the unilateral disclosure argument from this request.
 - *Ms. Brian responded that no such decision had been made to her knowledge, and noted that they can look to add more information on unilateral disclosure into this request.*
 - *Ms. Steinle suggested that this would be a good idea as long as they are clear that it is a Department of the Interior disclosure and not an MSG disclosure.*
- Mr. Romig commented that this document has been developed and vetted, and he did not want to delay it. However, given that they have talked a lot about this topic over the last 1.5 years, and emphasized that their data is reliable, he suggested they should include language about the strength of their unilateral disclosure.

The MSG agreed to add language to the document explaining that federal transfers to states have been unilaterally disclosed. Subsequently, the document was amended and the MSG decided to submit the Application for Extension of Adapted Implementation to the EITI International Board.

- **Decision: The MSG decided to submit the Application for Extension of Adapted Implementation to the EITI International Board. The USEITI Secretariat shall transmit the document to the EITI International Board on or before January 1, 2017.**

H. IA Recommendations for 2017

There were a series of presentations and discussions on IA recommendations for 2017.

1. Improving the Efficiency of the Reconciliation Process

John Mennel and Alex Klepacz, IA team members from Deloitte, presented ideas on how to make the reconciliation process more efficient over time without losing the value of transparency or disclosure. Mr. Klepacz noted that EITI Requirement 4 asks for reconciliation of data, taxes, and revenue. The question is how to meet that requirement more efficiently. The U.S. has now gone through the process for two years, and 19 of the 21 issues that came up in year two were also seen in year one. The IA team had considered three ideas to improve efficiency: sampling, review of the Department of Interior (DOI) audit process, or addressing margins of variance.

a) Sampling

With respect to sampling, the IA recommended a sample size of 27 companies, including all 10 of the companies in the largest size strata, 9 of 13 companies in the middle size strata, and 8 of 18 companies in the bottom size strata. They then looked at the data they received for the full reconciliation process and compared it to what they would have received through sampling. Under the sampling procedure, total government non-tax revenues for in-scope companies went down, as did the total number of companies reconciled.

Mr. Mennel noted that IA was recommending not to go forward with sampling for at least another year for two reasons: 1) EITI countries are required to have a representative sample but because of the voluntary nature of reporting, USEITI might not have enough companies to create such a sample; and 2) right now USEITI has 80% of revenue accounted for, and that percentage would go down under sampling. This could result in bad optics before the EITI Board.

An MSG member asked the following question on sampling; *the response from Mr. Mennel is indicated in italics:*

- Is sampling intended as a one-time exercise to demonstrate whether it can meet the letter and spirit of the requirement, or would USEITI switch to it as means of reporting each year? *The idea was to assess whether USEITI should switch to it on an ongoing basis, and the IA team believes that this would not be advisable at this time.*

b) Review of DOI Audit Procedures

Mr. Klepacz reported on the IA's review of DOI audit procedures. As part of the annual DOI audit process, an independent auditor performs set of procedures, including sampling and testing, to make sure financial statements meet a certain standard. In October 2016, the IA was asked whether USEITI could repurpose this audit process and see if it might satisfy EITI requirements, potentially with some modifications. The IA is set to begin looking at this question, and whether it might be more cost-effective than the current reconciliation process.

Mr. Gould noted that the Implementation Subcommittee would address this issue at its November 30, 2016 meeting, and have a conversation on timing and next steps. There will be a presentation on it at the February 1-2, 2017 MSG meeting. Mr. Gould also reminded the MSG of its intention to include a broader discussion of these issues as part of the contextual narrative, so it can be well documented in the 2017 Report if the MSG decides the new approach workable. An IA representative cautioned that it is unlikely these issues could be resolved in time for reconciliation in 2017. Given that EITI Requirement 4 specifies that governments and companies must provide data, and those data must be reconciled, the approach would likely need Board approval.

Mr. Mussenden suggested that if the IA's analysis supports the view that the current processes are equivalent to reconciliation, then the MSG would promote these processes. He suggested that this analysis may not be completed in time for companies to utilize it in 2017, but if so then the MSG would aggressively pursue it.

MSG members made the following comments and asked the following questions on DOI's audit procedures, organized by theme; *direct responses are indicated in italics, with the speaker's identity noted as appropriate.*

Clarifications and overall reactions

- What does reconciliation actually involve and how deep is the review? *Mr. Klepacz: It involves looking at the payments made and reported by companies, and the information provided by government on revenues reported by companies. The IA reconciles the two numbers and both governments and companies confirm their information is correct. If the company and government both report the same numbers, it is considered reconciled. But if the numbers are different, and outside a margin of variance, then the IA works with both to determine the source of the discrepancy. For example, it could be an issue related to timing, to pay.gov, or to classification.*
- This new approach might not just be more efficient, but also more meaningful and thorough. Currently you get companies' data and DOI's data. But DOI's data has come from those same companies. This new approach would use Treasury Department data on money received, and match it with companies' reporting to DOI. *Mr. Mennel: That characterization of the current approach is not entirely correct. USEITI is not just reconciling company data with company data. It is reconciling what ONRR shows it is owed with what companies say they're providing.*

Safeguards in the current system

- ONRR has a well-developed system and might already be doing what has been suggested.
 - *ONRR Representative: ONRR has a process involving thorough up front edits and data mining to make sure reported figures are reconciled.*
 - *Mr. Mennel: The IA will take a look at this issue. It's a fairly complicated topic so the IA should look at it carefully. The IA is looking at transaction level detail and finding opportunities to clean things up. It's possible the audit procedures will involve a broader set of transactions and be more comprehensive.*
 - *Industry representative: ONRR receives reporting from Oil and Gas Operations Reports (OGORs). Companies are required to submit volumetric information with meter statements, and they get audited on those meters. The auditor considers meters to be similar to cash registers, and they must match the money companies are reporting. The meters*

must have all the required technical specifications and controls, and the volumetric data are evaluated carefully.

- *State Representative: Sometimes, states audit the federal system. In our state, for example, we initiated an audit and arrived at our own conclusions to make sure the state was getting its distributions as appropriate. The U.S. audit process exceeds anything EITI could ever hope to achieve. Reconciliation adds no value in the U.S., and the issue is simply whether to meet the EITI standard.*
- The initial reporting USEITI makes each year is from information reported by industry. It is not audited information. *Industry representative: The information has multiple safeguards to ensure it is accurate. Companies are required to notify the Bureau of Land Management (BLM) and the Bureau of Safety and Environmental Enforcement (BSEE) prior to any meter calibration on a transfer meter, and there are representatives from multiple institutions present witnessing the meter reading. BLM and BSEE get the meter statements and compare them against the reported data that companies file. They are looking monthly at the volume information on key company assets to ensure it matches both the company and the pipeline. Companies also need to show a pipeline statement and deliver it to BLM and BSEE for review. And when companies get audited, this information is turned over again.*
- USEITI needs to explicitly and carefully express where the data is being reported so that there are no questions about USEITI's process when the U.S. is validated. *Mr. Mennel: That is a good point. USEITI already does a fair amount of describing of the validation and controls process in the U.S. This process will help USEITI dig into details even more.*

Industry perspectives

- Industry has new evaluation rules and regulations coming into place in 2017. They will be costly and require realignment of resources. Industry is paying more attention to these requirements, which are mandatory, than to EITI, which is voluntary. In addition, companies are currently going through divestitures, which makes things even more complicated. With commodity prices at their current level, my company has 30% less staff than the first time it did this. Moving forward it will be difficult to maintain the same level of participation.
- The reconciliation process is labor intensive. It takes three or four man-weeks for big companies to do this. Just completing the report takes a lot of time, and then reconciliation takes even more time. The last few years that my company did it, it found nothing of substance. If USEITI were to make it easier it would find a lot more companies willing to participate.
- Companies have to be so careful that there are no inadvertent mistakes made with respect to their mandatory reporting requirements. They are working with fewer resources, managing new requirements, and trying to fulfill requirements that have stiff penalties for any inadvertent errors. They are unlikely to spend additional resources on something voluntary like EITI. *ONRR Representative:*

ONRR constantly tries to make changes and improvements to its process. ONRR tries not to penalize routine mistakes.

Timing

- Although the IA recommendation was to look at the audit process next and make any changes to the reconciliation process in 2018, the MSG should consider whether USEITI can implement recommendations on the DOI audit process and reconciliation in time for the 2017 Report.
 - This is unlikely to be possible in 2017. Unlike the recommendation on margin of variance, which is entirely within the control of the MSG, the recommendation on the audit process involves other parties and will take longer. The MSG needs to ask the Board if it can do what the IA is suggesting.

Concluding thoughts

- Initially, the review of DOI audit procedures was also for purposes of determining the potential for mainstreaming. USEITI should include some linkages to that issue in the report.
- It is clear there is a lot of interesting work at many levels to ensure this data is accurate. However, that is not clear to the public. More information on DOI's audit procedures would help build trust in USEITI's processes. It is critical to document these procedures comprehensively.
- Despite the rigor of the ONRR process and industry data, it might not be sufficient to meet the international standard.

c) Scope and margin of variance

Mr. Klepacz next discussed potential changes to the scope and margin of variance of reporting as part of the MSG's annual agreement on the reconciliation process. The IA found examples of variances where the low dollar values of particular transactions resulted in high variance percentages. In one example, a 64.62% variance resulted from a \$2,000 difference in reporting by the government and the company. Given that there are now two years of variances that have all been explained, the IA has suggested that it should study whether there may be ways to adjust the scope and margin of variances that could reduce the level of effort by companies and the government. USEITI now has 40 documented variances, all of which have been explained, and may be able to make some helpful changes.

MSG members made the following comments and asked the following questions on scope and margin of variance; *responses are indicated in italics, with the speaker's identity noted as appropriate:*

- One company had to investigate a \$25,000 variance after generating millions of dollars in offshore extraction, instead of focusing on doing their jobs and perfecting safety and performance. *Industry representative: That variance resulted from a field problem.*

- Should these ideas be included in the Report?
 - *Mr. Mennel: They are amplifications of Recommendations 2 and 5. They're not in the Report because those are supposed to be broader recommendations, and because the MSG's thinking has progressed in the few months since the Report was drafted. In addition, this presentation is giving us the details behind the recommendations in the Executive Summary, and the MSG can add it to the Report next year.*
 - *Mr. Field: CBI will make sure to report on these ideas in the meeting summary.*
- Timing issues are very common. Companies and the government spend a huge amount of time reconciling the differences between their fiscal years. USEITI needs clear ways to spot timing issues that lead to variances and fast track them. How can USEITI address the calendar year reporting issue systematically to eliminate wasted time and effort when this issue comes up unexpectedly? *Mr. Klepacz: Now that the government and the company know of this particular issue, they can predict it moving forward and be able to address it very quickly. However, there is no way to look immediately at a variance and see that it is a timing issue. Unless you dig into it you can't know the cause.*
- The Executive Summary does not quite reflect what the MSG is hearing today. It states that USEITI should "include greater disclosure of transaction-level detail." That sounds like the exact opposite of what MSG members are now suggesting. This discussion should be documented, and the website should be supplemented when USEITI goes to the International Board.
- The MSG should be cautious about how it talks about margin of variance. The margin of variance exists because USEITI decided variances below a certain threshold are not material.

Mr. Mennel summarized the IA's recommendations on these options moving forward. Of the three options identified, the IA recommended that sampling not go forward for next year, but sampling could be revisited in the future. The IA also suggested that they review the DOI audit procedures to see if it is possible to supplement or replicate the reconciliation process, to implement in 2018. The IA also suggested the MSG take forward the recommendation to review the reconciliation scope for 2017 in light of the history of transactions they have developed. Additional information can be found in Mr. Klepacz and Mr. Mennel's presentation slides, available online at: https://www.doi.gov/sites/doi.gov/files/uploads/rr_efficiencies_msg_presentation_20161109_vfinal.pdf.

Mr. Gould suggested that the subcommittee would consider the recommendations in the coming year.

2. Key 2017 Decisions and Decision Dates

Sarah Platts reviewed the decisions that the MSG will need to make in February 2017. These include deciding which if any new commodities will be added to the scope of

reconciliation. Adding a new commodity would impact reporting and reconciliation, which requires MSG approval. Per Federal Advisory Committee Act (FACA) requirements, materials on this issue would need to be submitted to ONRR by January 17. Adding a new commodity would also mean generating two new county case studies. For these reasons, if there are any new commodities people want to add, this needs to be brought up to the subcommittee so they can be vetted.

In addition, the State and Tribal Subcommittee will need a final list of states and tribal opt-ins by April. Currently, the IA contract does not include state and tribal opt-ins or new commodities. They can be included if ONRR exercises an option, but ONRR needs to know to do this in time.

The February 2017 meeting will also involve deciding on new contextual narrative additions. In the meeting, the group will need to approve the topics, but not the actual work products. Ms. Platts noted that potential contextual narrative additions for 2017 include the following topics:

- A special highlight on renewable resources
- A special highlight on forestry
- An interactive way to sort through and navigate the laws, statutes, and regulations based on relevant lands and natural resources

Mr. John Cassidy, IA team member from Deloitte, added that the February meeting could include more than these three topics, and members were free to suggest additional ideas.

Ms. Platts concluded her presentation by reviewing the reporting and reconciliation timeline for 2017 and the 2017 timeframes and deliverables. Additional information can be found in Ms. Platts's presentation slides, available online at: https://www.doi.gov/sites/doi.gov/files/uploads/20161108_2017_key_dates_and_decisions_vfinal.pdf.

MSG members made the following comments and asked the following questions on Ms. Platts's presentation; *responses from Ms. Platts and Mr. Cassidy are indicated in italics, with the speaker indicated:*

- Where did the three contextual narrative ideas come from?
 - *Mr. Cassidy: The IA collected them throughout the year. The IA tries to keep track of ideas people discuss in MSG or Subcommittee meetings.*
 - *Ms. Platts: They reflect what the IA has heard from members about spaces where there may be opportunities to tell more of the story from the U.S. perspective.*
- It would be helpful to talk about different types of technologies.

- Before the MSG decided on the content for the first report, there were some good materials developed regarding USEITI's thinking on renewables and forestry. The MSG should review those materials.

I. Lease-level Unilateral Disclosure

Robert Kronebusch presented on the potential for DOI to move forward with lease-level unilateral disclosure, a step beyond the current unilateral disclosures. He noted that DOI currently unilaterally discloses calendar year 2013-2015 revenues at the company, revenue stream, and commodity levels on the USEITI Data Portal. There is a \$100,000 per company (and its affiliates) reporting threshold. He then reviewed the ONRR definitions of "lease," "right-of-way" (ROW), and "right-of-use and easement" (RUE) as they would relate to the SEC Dodd-Frank Section 1504 definition of a "project". He noted that the current lowest level of reporting that comes to DOI and ONRR is in the form of a lease. ONRR gets paid on the basis of leases, ROWs, and RUEs.

Mr. Kronebusch reviewed the number of leases, ROWs, and RUEs reported to ONRR in CY2015 (~47,000), which were disclosed on the data portal, and provided data on lease sizes. He noted that the Section 1504 project definition references agreements and that DOI has "communitization agreements" and "unitization agreements," and offered definitions for each. He suggested that unitization agreements can be very large, up to 1 million acres. He then presented figures on the number of agreements reported to ONRR in CY2015. The total number of leases, ROWs, RUEs, mines, and agreements for CY2015 was over 57,000, or roughly 10,000 more than the total number of leases. This is because, even though agreements aggregate leases, a single lease can be associated with many different agreements. The relationship between leases and agreements is complicated, and roughly a third of all leases are involved in communitization or unit agreements.

Mr. Kronebusch further noted that BLM and ONRR have different lease naming conventions and OSM collects at the mine level not the lease level. Additional information can be found in Mr. Kronebusch's presentation slides, available online at: https://www.doi.gov/sites/doi.gov/files/uploads/lease-level_udr_presentation_final_11-09-16.pdf.

MSG members made the following comments and asked the following questions on Mr. Kronebusch's presentation, organized by theme; *direct responses from Mr. Kronebusch, his colleague at ONRR, Nathan Brannberg, and others are indicated in italics, with the speaker identified as appropriate.*

Overall reactions and clarifications:

- Has ONRR looked at geographic interconnections? For example, in the Gulf of Mexico, there is one facility measurement point for oil and one for gas and they cover a dozen leases. Industry would call that one project and it could create a reconciliation problem. Does ONRR have all that information in its system? *Mr.*

Kronebusch: Yes, ONRR has all the information. Production is reported to ONRR at the facility measurement point, to a level of detail of every lease or agreement and well. That's where ONRR does some of its up front editing.

- It creates a reconciliation problem if ONRR reports at the lease level and industry reports at the project level. *Mr. Kronebusch: For reporting at the facility measurement point (FMP) level, there would need to be agreement on what the project is or how many FMPs come together. Some projects have multiple FMPs.*
- Is ONRR looking at both offshore and onshore production? *Mr. Kronebusch: Yes.*
- A ROW is in perpetuity, but the situation is not so clear with leases. USEITI should clarify this issue in the definitions, and not presume everyone knows these details.
 - *Mr. Kronebusch: With a lease, normally you have 10 years to produce and if you do, then it is in perpetuity, but if you don't it's not.*
 - *Industry representative: There is a primary term specified in the lease, and as production is maintained the lease will continue until production ceases.*
 - *Mr. Field: If USEITI goes to this level it sounds like there's a definitional issue of making sure people understand the details.*
- Could you clarify the sources of the data?
 - *Mr. Kronebusch: The source of the ONRR payments data is Form ONRR-2014, which covers oil and gas, NGLs, helium, and some others. For coal and solids it's Form ONRR-4053, the production and royalty report. For the items that cannot be paid on those two forms, ONRR used direct billing activities. Direct billing represents 1-2% of the total revenue.*
 - *Mr. Brannberg: For direct billing, also known as accounts receivables billing, there are a lot of rental payments, meaning that it involves a lot of contracts even if the total amount of revenue is relatively small. The rental payments are shown by lease.*
- What are the sources of revenues in the charts you showed? *Mr. Kronebusch: An estimated 80 is royalties. Bonuses and Rents are also a big source of revenue.*

Understanding unitization and communitization agreements:

- How much do unitization agreements affect accounting and how much are they a response to geology? It would be helpful to understand more about how unitization agreements relate to existing leases, and how many of them there are compared to unique leases. *Mr. Kronebusch: One difference is the complexity regarding reporting royalties. As far as ONRR is concerned, it doesn't matter whether it's a lease, an agreement, or anything else. For companies, it might be tougher because if it's an agreement they have to aggregate all their wells. Roughly half of what is reported to ONRR is from standalone leases and roughly half is from agreements. For auditors, it is important with agreements to make sure every lease is getting the correct allocation, because they have different*

royalty rates and you want to make sure the government gets every dollar it is due.

- What does it look like in practice for industry to report on communitization agreements versus unitization agreements? *Industry representative: With communitization agreements, they want to isolate well by well, so they can see the meter statement on the well head and know it is being reported for that communitization agreement. With a unit, companies take all the wells in that unit and accumulate them, typically designated to an FMP. Each lease will be given an allocation percentage of the unit, and companies will ignore the individual wells. It is easier to track the volume as they're commingled at the FMP.*
- For unitization agreements, the idea is that everyone agrees to an allocation for extraction that they agree is fair for a common reservoir, after a lot of analysis. They agree on an overall allocation but do not measure every well, and measure at the custody transfer point for the entire reservoir. For communitization agreements, they agree on every well. *Mr. Kronebusch: When royalties are reported for agreements, ONRR gets both the lease number and the agreement number. You need the lease number because that is how money gets distributed to the states, counties, or tribes.*

The Trade Secrets Act

- How do you determine if there is a Trade Secrets Act (TSA) problem and how is it handled in the reports?
 - *Mr. Kronebusch: The experts in the government determine what they feel could potentially cause competitive harm. If the government discloses numbers four or five months after the end of the year, and look at yearly not monthly revenues, some might conclude that there is minimal potential for competitive harm.*
 - *ONRR representative: When a request for information comes in, staff look into it to see if it might reach a threshold for causing competitive harm. It is easier for us to respond to these types of requests on a case-by-case basis than to report everything annually. The latter requires tremendous resources and time, although technically it is not difficult. The MSG should discuss this resource issue now and next year.*
- If you determine there's a Trade Secrets Act (TSA) problem, how is that reflected in the reports?
 - *Mr. Kronebusch: Currently in the data portal, there is a "W" for withheld, reported by the company. For oil and gas, if you go to the state website for a lease's production and have the lease number, you could theoretically figure out the price per barrel or mcf. For solid minerals it is stricter.*
 - *Industry representative: As long as there is a delay in the release of the information and it is broken down annually, not by month, there is less risk for companies in oil and gas. For hard rock it is different.*

- USEITI should be sure to explain to and educate the public about why there may be TSA issues with coal and other minerals, to avoid suspicion. USEITI should explain how unitization and communitization agreements work, and potentially even provide visualizations. It should look into creating an animated training module for the data portal.
 - *Mr. Kronebusch: ONRR already has reporter training two to three times a year and has many presentations on what these agreements are, and the life of a lease from cradle to grave. There are many kinds of educational materials like this that USEITI could put on the data portal.*
 - *ONRR representative: The MSG could add this as a special topic to next year's report. Linking the data portal to some of ONRR's training is a great idea. For example, ONRR has a new training system where it uses videos that the MSG could link into the data portal.*

Steps towards ONRR setting up a lease-level disclosures system:

- If ONRR decided to perform lease-level unilateral disclosure, would it just be a matter of feeding data into a spreadsheet once it is set up? *Mr. Kronebusch: ONRR has the information and could do it. ONRR had to do it for this presentation.*
- Based on information on bonuses and rents by lease, should USEITI present the revenues by lease? Would this be more meaningful than doing it by agreement?
 - *Mr. Kronebusch: Doing it by the lease only makes sense. Everyone can agree on what that number means, and it's simpler to track. With agreements it is difficult to keep track of all the layers.*
 - *ONRR representative: ONRR is committed to reporting out the leases at some point. ONRR wants to make it automated, so it does not need to create a spreadsheet each time. Otherwise, the data is out of date very quickly. ONRR has a system where you can send in a FOIA request and the staff will get back to you with the information. This works fairly well and if ONRR changes it, it wants to do it right.*
- From an industry perspective, if this is just unilateral disclosure of lease level data, then this could be a wonderful approach. But if USEITI tries to reconcile projects to the leases it could get messy, and industry likely will not report everything at the lease level under SEC 1504.
- From a stakeholder perspective, it would help to see what the leases look like without having to do a FOIA request, so you can know more about who the industry players are in your community. These developments are part of a wonderful story about something emerging from USEITI that is creating searchable, usable data that is making government more efficient.
- BOEM is already providing lease-level disclosure in the Outer Continental Shelf, so there is the beginning of a precedent for this in DOI.
- What is the source of the wait for ONRR to implement this? *ONRR representative: It is a matter of getting ONRR's technology to the point where it*

can do this in an automated fashion. It is a capacity challenge with respect to implementing a business intelligence unit.

- Does ONRR intend to unilaterally disclose lease level information where it can, except for when there is a TSA issue? *ONRR representative: Yes, ONRR is committed to doing that when it can do it in an automated fashion. If the MSG feels strongly it needs to do it in the interim using a spreadsheet to meet its mandate, then ONRR could do that but it may not make a lot of sense.*
- State and county level reporting seems of more interest to communities than lease level reporting, since leases cross several counties and likely will not mean a lot to people. Currently, the U.S. has reporting by state and county and should at least continue it at that level. However, both are useful and there are also reasons for the lease level data.

The EU system and EITI requirements:

- How does the EU manage this reporting issue? *Industry representative: The EU has a definition that is similar to the SEC definition. In the EU, projects are defined at the lease contractor agreement level, although there's a different term of art. There is the ability for some aggregation above the contract level, but the principle is close to a contract level.*
- What does the EITI require? *Industry representative: EITI says that once you start reporting at the project level though the SEC, you need to do that for EITI as well.*
- Does the EITI standard require reporting or reconciliation? *Industry representative: It requires reporting, but that's because project level reporting hasn't really started. Industry does not think it's practical to reconcile on a lease or project level. The government receipts aren't gathered on a project level. It would be difficult to package and report them.*
- USEITI should clarify that the EU rule is already in effect. Companies registered in the EU need to report revenue with respect to worldwide production including in the U.S. So companies there have already reported at the project level. And now SEC 1504 is being implemented.
- Is the expectation that industry will only release this data on an annual basis and USEITI would never go to real-time reporting, to avoid competitive harm? *ONRR representative: ONRR will be studying that issue as it implements this. ONRR sees some opportunities for real-time disclosure as information comes in, but it is not near to implementing that and it would need to consider how to put in appropriate protections.*
- Anything USEITI does that is common between the EU and the U.S. with respect to reporting will be helpful. Under EU Directive 10, it looks like the project is defined at the state level. Does anyone know how that will be implemented?
 - *Industry representative: It's subnational and project disclosure, but current reports may just have state level disclosures.*

- *Civil society representative: We have begun analyzing this issue and reaching out to industry colleagues to ask for the rationale for reporting at the state level. It is pending further analysis. In the EU Accounting and Transparency Directives "Project" is defined as "the operational activities that are governed by a single contract, license, lease, concession or similar legal agreements and form the basis for payment liabilities with a government". There is no reference made to a definition based on a political boundary, such as a state.*

J. Beneficial Ownership Roadmap

Jim Steward, Department of the Interior, Paul Bugala, American University, and Mr. Harrington presented on work by the Beneficial Ownership Workgroup and sought approval from the MSG of a Beneficial Ownership Roadmap. They noted that guidance from the International EITI Secretariat requires that implementing countries agree and publish roadmaps for their beneficial ownership disclosures by January 1, 2017. In addition, implementing countries must request, and companies must disclose, beneficial ownership information for inclusion in their EITI reports as of January 1, 2020.

The presenters commented on areas in which the U.S. addresses beneficial ownership issues currently, such as the U.S. government's efforts within the G8's Financial Action Task Force (FATF), and a new rule and proposed legislation coming from the U.S. Department of the Treasury. They also reviewed existing avenues for disclosure of information on beneficial ownership in the U.S., including information collected by states, the IRS, and the SEC. They suggested, however, that DOI does not collect beneficial ownership information, and noted that the Workgroup would benefit from developing a more effective understanding of DOI authority. Additional information can be found in Mr. Steward, Mr. Bugala, and Mr. Harrington's presentation slides, available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/beneficial_ownership_presentation_draft_10-17-16.pdf.

MSG members made the following comments and asked the following questions on the presentation; *direct responses are indicated in italics, with the speaker identified as appropriate:*

- Zorka Milin, Global Witness, suggested that the U.S. efforts are welcome but insufficient. She asked whether DOI would have authority to request information on beneficial ownership pursuant to its statutory requirement to determine interest in a lease, and suggested DOI might base its authority more broadly on issues related to conflict of interest or breaking the law. *Lance Wenger, DOI Office of the Solicitor, responded that DOI doesn't have a specific statute mandating it can gather this information. It does have a variety of different standards allowing it to get certain information, but the information it can gather under relevant statutes is limited by type of information and purpose. DOI is not authorized to gather more granular beneficial ownership information. DOI*

could, however, look into using the prohibitions on members of government owning leases in order to gather some additional information.

- Aaron Padilla, American Petroleum Institute, suggested that as the MSG considers next steps, a helpful frame could be to think of the problems that can arise from beneficial ownership, and which if any might be concerning in the U.S. He noted that, in the U.S., there are strong instruments preventing conflicts of interest in government, but there may be concerns about whether the public will get a good deal from the extraction of public lands and waters, or whether public policy will be used to enrich individuals.
- Isabel Munilla, Oxfam America, commented that regardless of the specific concerns in the U.S., the U.S. will need to meet the EITI requirement. The draft roadmap should map the existing system in the U.S. and how specifically it fits with the EITI requirements. This exercise might expose problems on coverage of companies, systems for collecting the data, and what governs public access.
- Mr. Dudis suggested that the group should look beyond just the federal context because the majority of all mineral extraction does not take place on federal land and because conflict of interest legislation in states and municipalities has important impacts. He also suggested that the MSG should look at how other countries have tried to define this issue, and be guided by a consideration of past scandals in the extractive industry that could have been prevented or exposed if additional beneficial ownership information had been available.
- Mr. Harrington noted that industry, and in particular large publicly held companies, are sympathetic to the beneficial ownership agenda. These companies face a big challenge with respect to due diligence in developing countries. The question is just mechanically how to implement it.
- Veronika Kohler, National Mining Association, expressed support for the idea of looking towards where the problem is and where the U.S. might still be vulnerable.
- Curtis Carlson, U.S. Department of the Treasury, noted that the beneficial ownership roadmap is focused on federally owned resources and there is no central database for privately owned resources and that in the U.S. there are a lot of privately owned resources.
- Mr. Bugala commented that there are examples in the U.S. where the creation of shell companies and the inability to identify beneficial owners has had detrimental effects. There are also examples of incorporated companies operating anonymously overseas.
- Mike Smith, Interstate Oil and Gas Compact Commission, commented that the U.S. is the only country in world that has private ownership of minerals, and that the judicial system is the most appropriate remedy to problems between private owners.

Mr. Field concluded the discussion by asking members if there were any objections to approving the draft roadmap and forwarding it to the EITI International Secretariat.

There were no objections and the MSG decided to submit the USEITI Beneficial Ownership Roadmap to the EITI International Secretariat.

- **Decision: The MSG decided to submit the USEITI Beneficial Ownership Roadmap to the EITI International Secretariat. The USEITI Secretariat shall transmit the document to the EITI International Secretariat on or before January 1, 2017.**

K. Mainstreaming

John Cassidy, IA team member from Deloitte, presented the IA's assessment of the feasibility of mainstreaming. He commented that mainstreaming is based on an idea that drafting an annual EITI report may not be the best use of time for every country; it might be preferable to automate the process and make it part of the everyday business of the government and companies. He clarified that mainstreaming does not change what the EITI standard requires; rather, it is another way of meeting the requirement.

Mr. Cassidy reviewed the various steps for mainstreaming, noted that from now into next year the MSG is focused on studying the feasibility of mainstreaming, reviewed next steps in the IA's feasibility study, reviewed current processes and procedures related to mainstreaming in the U.S., and suggested a number of potential areas for the U.S. to improve its EITI performance and potential for success with mainstreaming. Potential areas for improvement include doing more to showcase unilateral disclosure already occurring in the U.S., filling the gap on tax and project-level reporting through SEC 1504, and better explaining the audit requirements that currently exist. He concluded by noting that a decision on mainstreaming did not need to be made at the present MSG meeting. Additional information can be found in Mr. Steward and Mr. Cassidy's presentation slides, available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/mainstreaming_msg_vfinal.pdf.

MSG members made the following comments and asked the following questions on the presentation; *direct responses are indicated in italics, with the speaker identified as appropriate:*

- I thought the MSG had agreed to conduct a pre-feasibility study, not a feasibility study.
 - *Mr. Gould: The MSG did discuss a pre-feasibility study. ONRR opted to have the IA start on a full feasibility study in order to keep moving forward if USEITI is to pursue mainstreaming. If there are concerns about this, the MSG can discuss this further.*
 - *IA team member: Upon review, the IA determined that the differences between a pre-feasibility study and a full feasibility study were minimal.*
- You mentioned the politics have changed on Dodd Frank. How so? *IA team member: There is now increased uncertainty on what might happen. Dodd Frank would play an important role if mainstreaming goes forward. The IA's view is*

mainstreaming would be a multi-year process, and in many ways would follow a parallel path with SEC 1504.

- What EITI documents authorize the criteria that the data must be comprehensive, up-to-date, and reliable, and are they really an adequate scoping for whether government data is helpful? *IA team member: The comprehensive, reliable and up-to-date standard is from the validation guidelines document. Two additional criteria might be data quality and transparency.*
- Commenters expressed diverse opinions on the significance of corporate income tax reporting and reconciliation. One suggested that what matters is that the USEITI numbers are adding up in reconciliation, and the taxes would therefore add up as well. Another commented that even if the Treasury Department has excellent systems, the U.S. is still falling short on making tax information publicly available. Another noted that it would be helpful for civil society to indicate if its priority right now is EITI compliance or tax reporting, so that USEITI can prioritize its efforts. *Mr. Cassidy noted that the IA will set up stakeholder interviews on the tax issue, which will likely happen between now and February. Mr. Mennel suggested there is an argument that what is required by 1504 is sufficient for mainstreaming.*
- There were various perspectives on how much of a “deal breaker” the tax issue will be for the U.S. One suggested it would definitely be a problem with the EITI International Board. Another noted that ONRR worked closely with the SEC to use USEITI as a means for compliance with the 1504 standard and suggested that will bode very well for mainstreaming. *An IA team member commented that it is impossible to know whether tax reporting is a deal breaker at this time. No other feasibility study has been conducted and the only other country going forward on mainstreaming is Norway. The language in the standard says “all transactions,” which implies all companies. However, it is reasonable to assume that the board will draw the line somewhere short of “all transactions” for the sake of practicality but USEITI will need to make a case for where the line should be.*
- USEITI might be able to look at mainstreaming as an opportunity help maintain momentum on government efficiency.

L. Validation Discussion

Mr. Gould initiated the conversation on validation by noting that the current date for the U.S. for validation is April 2018. He suggested the MSG enter the conversation on validation believing that the U.S. will be found compliant but also recognizing that the U.S. probably cannot be found compliant within the existing standard. There will be a global discussion on the standard that the U.S. can influence.

After these initial comments, Ms. Wilson presented an overview of validation. She reviewed the purposes of validation, steps in the validation process, key areas of validation requirements, and the core requirements any country must meet to avoid suspension. She also reviewed a draft pre-assessment for USEITI, estimating the level of progress by the U.S. on various EITI requirements. The draft pre-assessment included

the following suggested findings, using the color scheme of the International Secretariat to indicate the degree of progress:

- Satisfactory progress (marked green) on relevant requirements related to MSG oversight, licenses and contracts, monitoring production, revenue allocation, and socioeconomic contribution.
- Meaningful progress but still not satisfactory (marked yellow) on some revenue collection requirements.
- Progress beyond what is required (marked blue) on public debate and data accessibility.

Additional information and the detailed suggested findings can be found in Ms. Wilson's presentation slides, available online at:

https://www.doi.gov/sites/doi.gov/files/uploads/validation_overview.pdf.

MSG members made the following comments and asked the following questions on the presentation, organized by issue; *direct responses are indicated in italics, with the speaker identified as appropriate.*

General comments:

- Under the current validation system most countries will fail, so there will need to be a conversation about flexibility for countries that are doing good things but cannot fully comply with the standard. The compliance challenges the U.S. is facing are not unique.
- There are opportunities within the standard, such as mainstreaming and adapted implementation, that the U.S. should take advantage of to maximize its chances. The U.S. does not have risks in areas like civic space, and it is making many disclosures that are exceeding the standard, which it can highlight. It can also be specific about areas where it has risks, like participation level of reporting and corporate income tax reporting.
- USEITI should not try to define down the standard in order to make it easier to comply. EITI was created to give people insight into where money was coming from in the extractive sector. The fact that USEITI not been able to do so speaks to some of the governance difficulties and corruption in the U.S.

Direct subnational payments:

- Direct subnational payments is yellow but if the USEITI Secretariat were to make it green the board would likely agree. *Ms. Wilson: It indicates USEITI has pursued adapted implementation.*

Data timeliness:

- Data timeliness should be blue because the requirement is no more than two years, and in the current USEITI report it is one year. *Ms. Wilson: That is a good point. The MSG should consider changing it.*

Data comprehensiveness

- Some commenters suggested that data comprehensiveness should be green instead of yellow because it is USEITI's fundamental program. Others suggested yellow is appropriate because many companies have not participated in revenue reporting. These commenters noted that the U.S. has gone above and beyond in some areas of data comprehensiveness (like unilateral disclosures) but is behind in others (like tax reporting), so it evens out to yellow. *Ms. Wilson explained that draft pre-assessment coded this issue as yellow because the government is prohibited from full disclosure of tax revenue and company reporting is voluntary. While Dodd-Frank Section 1504 may improve things, it is not yet implemented so USEITI cannot take credit for it. In addition, government reporting specifically is marked blue, but the overall requirement is marked yellow.*
- Some of the mining companies that are not in USEITI's current universe have shown greater willingness to disclose their taxes. If USEITI expands the universe of its companies, a side effect might be an improvement in USEITI performance on tax reporting.

Data quality

- The data quality requirement looks at the U.S.' audit and assurance practices and how USEITI ensures the quality of the government's unilateral data reporting. USEITI has done a great job of this in the 2016 Report and it should be green.

Disaggregation

- MSG members expressed various opinions on disaggregation. One highlighted the impact of the fact that the U.S. decided not to disclose project level revenues, while another noted that a U.S. regulator has made a commitment to project level reporting using a definition consistent with the global standard. One suggested that disaggregation should be marked "N/A" instead of yellow, because project-level data is not relevant to implementation of the standard, while another suggested it should be green because USEITI has disaggregated by company and commodity and that is the definition of disaggregation until SEC 1504 comes into effect. Another suggested that, regardless of the coding, the MSG should note that it does not think it will be a material issue for validation because the board is waiting until the EU and SEC rules are in place before enforcing the standard.
- In response to a question about whether USEITI needs company level and lease level data for the 2017 Report to say that it has met the disaggregation standard, *an IA representative noted that the main requirement is consistency with the SEC rule when it comes into effect. An ONRR representative further commented that Dodd Frank and the SEC rulemaking allow the U.S. to publish data at company levels but that the MSG can still continue discussions on project-level reporting.*

The EITI International Board will decide if the USEITI MSG's definition of success complies with the guidelines.

- Some comments focused on strategies for meeting the requirement even before SEC 1504 comes into effect, for example by ONRR reporting lease level data. One commenter noted that the Section 1504 law is in place and in effect, which means companies are required to be implementing the law even though first reports won't be out until 2018-19.

Documentation

- The MSG has been good about documenting recommendations from the IA and the associated MSG discussions. The requirement is that the MSG must discuss these issues and document how and why it has decided to address them, and the MSG in fact does that in its meetings.

Nature of the assessment

- Procedurally, what does the MSG need to do? *DOI and ONRR representatives and Mr. Field: The USEITI Secretariat will conduct an initial desk audit and MSG representatives can discuss it with them before the MSG submits it to EITI International. For the International Board to accept the application, the USEITI MSG must reach consensus, but there may be ways to finesse the issue of consensus. Then the International Board will make the final decision.*
- It is in the MSG's best interests to be in full agreement on the scoring for each requirement. It would a powerful statement to send to the Board to say that the U.S. is in complete compliance with the standard and that the full MSG agrees with this self-assessment.
- Can the U.S. still be validated if it fails on one issue? *ONRR and DOI representatives: Overall it is a broad grading system, except for the four requirements that EITI countries cannot fail: government engagement, company engagement, civil society engagement, and timely EITI reporting. The Board will make a determination on every individual requirement then look at all of those assessments cumulatively. They will look at USEITI's implementation in the context of the U.S. and the challenges USEITI has before it.*

Next, Ms. Wilson discussed the validation timeline and consequences of various validation scenarios, depending on the board's assessment of overall progress. She noted that after the first validation, countries have only one additional chance to achieve compliance 3 to 18 months later. If a country is found compliant, it will be reevaluated in three years. Details can be found on Ms. Wilson's presentation slides, as noted above. Participants offered the following comments and questions:

- The U.S. should be light green overall, but the EITI Board seems to believe that the U.S. is orange, indicating inadequate progress, primarily due to the tax issue. The USEITI Secretariat does not think this is a fair assessment. There are other countries considered green that have just as many issues as the U.S. To address

this issue the MSG should come to consensus that the U.S. is light green, and present that to the Board as a unified MSG on April 1, 2018.

- Participants differed in their predictions for how the Board is likely to react to the U.S. candidacy. Some suggested the Board may change how it thinks about validation issues after considering other countries because it will want to avoid suspending a large number of its members. Others suggested that the most essential part of EITI is transparency to citizens on revenues from the extractive sector, and if USEITI cannot provide that through tax information the Board will likely see it as a big problem. One participant suggested that in light of this potential outcome, MSG members should do everything they can to influence the regulatory process in the U.S. in a positive direction. One other participant questioned whether the U.S. will be compared to other wealthy countries or to poor countries that have severe capacity problems.
- Regarding the timing, the Board is currently way behind its validation schedule. It is unlikely that 18 months will actually be the maximum amount of time countries will receive until their second validation. For the U.S., the second validation will be at the end of 2020 at the earliest. It is likely that the regulatory situation in the U.S. will be more settled in time for the U.S. to survive the validation process.
- One participant suggested that USEITI could overcome challenges to validation if companies represented in the MSG agreed to disclose their taxes. Other participants noted that this issue is outside the control of MSG industry representatives, who have tried hard to educate their industry colleagues and leaders. Because corporate decisions on whether to disclose taxes are often made at the Board of Directors level, it is very difficult to get them to pay attention to EITI.

Mr. Gould outlined next steps on validation for USEITI, noting that the Implementation Subcommittee will be working on developing strong documentation to support USEITI's application, especially in the more challenging areas. Mr. Mussenden suggested it might be helpful for Implementation Subcommittee workgroups to explore possible areas of agreement on which requirements could be classified as "green" versus "yellow." Ms. Wilson suggested the MSG should be prepared well before the April 1, 2018 deadline with its validation pre-assessment.

IV. Public Comments

There was one public comment on Day 1 and a second on Day 2. On Day 1, Henry Salisman from the Navajo Nation commented that the data portal looks beautiful and thanked the MSG for its work. On Day 2, Henry Salisman, from a Navajo Nation thanked the MSG for its work. He noted he is a Native American citizen interested in the policy. In listening to the conversation, he heard lots of issues related to transparency, beneficial ownership, and the subnational status of Native American tribes, and he appreciated seeing Native American representatives on the MSG.

V. Wrap Up / Closing

Chris Mentasti, USEITI Secretariat, reviewed the decisions made during the meeting. Mr. Field reviewed the action items and noted that they would be distributed to the group.

Mr. Mussenden, DOI and Acting DFO, closed the meeting with some final words. He noted that he had an incredible experience working with the MSG, and it had been wonderful to observe the evolution of the USEITI project. He suggested that USEITI cannot move forward unless there is consensus, and he was heartened and encouraged by the group's ability to work together. He praised the MSG members, wished them well, and thanked them for the opportunity to collaborate with them. Mr. Mussenden adjourned the meeting at 4:00 pm.

VI. Meeting Participants

A. Participating Primary Committee Members

Civil Society

Danielle Brian, Project on Government Oversight, USEITI MSG Advisory Committee Co-Chair

Paul Bugala, American University

Lynda Farrell, Pipeline Safety Coalition

Mike Levine, Oceana

Veronica Slajer, North Star Group

Betsy Taylor, Virginia Polytechnic Institute and State University

Government

Curtis Carlson, Department of the Treasury

Greg Gould, Department of the Interior, USEITI MSG Advisory Committee Co-Chair

Mike Matthews, State of Wyoming - Department of Audit/Mineral Audit Division

Mike Smith, Interstate Oil and Gas Compact Commission

Industry

Stella Alvarado, Anadarko Petroleum

Phillip Denning, Shell Oil Company

Susan Ginsberg, Independent Petroleum Association of America

John Harrington, ExxonMobil

Veronika Kohler, National Mining Association, USEITI MSG Advisory Committee Co-Chair

Johanna Nesseth, Chevron

Michael Blank, Peabody Energy

B. Committee Alternates in Attendance

Civil Society

Daniel Dudis, Public Citizen

Zorka Milin, Global Witness

Jana Morgan, Publish What You Pay
Isabel Munilla, Oxfam America

Government

Jim Steward, Department of the Interior

Industry

Aaron Padilla, American Petroleum Institute
David Romig, Freeport-McMoRan Oil & Gas
Edwin Mongan, BHP Billiton Petroleum

C. Members of the Independent Administrator Team in Attendance

John Cassidy, Deloitte & Touche
Luke Hawbaker, Deloitte & Touche
Alex Klepacz, Deloitte & Touche
John Mennel, Deloitte & Touche
Sarah Platts, Deloitte & Touche
Kent Schultz, Deloitte & Touche

D. Government and Members of the Public in Attendance

Kimbra Davis, Office of Natural Resources Revenue
Troy Dopke, Department of Interior Office of Inspector General
Jerry Gidner, Office of Natural Resources Revenue
Jennifer Goldblatt, Office of Natural Resources Revenue
Mary Beth Goodman, National Security Council
Emily Hague, American Petroleum Institute
Michele Hertzfeld, GSA 18F
Sally Jewell, Secretary of the Interior
Corey Mahoney, GSA 18F
Tim Musal, Department of Interior Office of Inspector General
Paul Mussenden, Department of Interior
Charles Norfleet, Bureau of Ocean Energy Management
Jodie Peterson, Office of Natural Resources Revenue
Kathleen Richardson, Department of Interior Office of Inspector General
Henry Salisman, Navajo Nation
Mia Steinle, Project on Government Oversight
Alexandria Turner, Office of Natural Resources Revenue
Mary Warlick, Bureau of Energy Resources, U.S. Department of State
Lance Wenger, Department of the Interior Office of the Solicitor
Brenda Young, Office of Natural Resources Revenue

E. Facilitation Team

Patrick Field, Consensus Building Institute
Toby Berkman, Consensus Building Institute

F. DOI MSG Support Team

Chris Mentasti, USEITI Secretariat
Judith Wilson, USEITI Secretariat
Kim Oliver, USEITI Secretariat
Nathan Brannberg, Office of Natural Resources Revenue
Robert Kronebusch, Office of Natural Resources Revenue
Treci Johnson, Office of Natural Resources Revenue

VII. Documents Distributed

- MSG Agenda ([PDF](#))
- June MSG Meeting Summary ([PDF](#))
- Executive Summary and Reconciliation Report ([PDF](#))
- MSG Endorsement of Open Data ([PDF](#))
- Beneficial Ownership Roadmap ([PDF](#))
 - Guidance Note 22 ([PDF](#))
- Request for Extension of Adapted Implementation ([PDF](#))
- USEITI Work Plan Narrative ([PDF](#))
- USEITI Work Plan Spreadsheet ([PDF](#))
- USEITI Reporting Decision Matrix ([PDF](#))

VIII. Transcript of Remarks by Secretary Jewell, November 16, 2016

Thank you all and thanks to all of you in the multi-stakeholder group for your hard work on this. It makes me very proud of our country and what we're able to do when we work together. I'm very proud of the work you do. And a special shout out to the Co-chairs, Veronika Kohler and Danielle Brian. Thank you very much. And of course our team at Interior. Paul [Mussenden] has been the champion for this and enlightened me on the whole process when I first got here, and Greg Gould. I'm really proud of the work that they've done and the work that all of you have done, bringing the perspectives of industry, the broad society, and government together.

I had an opportunity to talk with the governor of Alaska, and I appreciate their efforts joining this, and the governor of Wyoming. I was in Mexico not too long ago and urged Mexico to step up as an EITI country. They lose somewhere on the order 30% of their nation's resources between when it is produced and when it's sold and accounted for. There are a whole variety of reasons for that. But the purpose is to address the challenges of resource rich countries where it doesn't benefit all people.

I've played on the website and it's terrific. It's not something I might do for recreation, but it's great and it's making it easier to use. That's really important. I want to thank you

for the work you do and how proud you make me. Few people understand how resource extraction on public lands works in the country.

We just did an event earlier today with Blackfeet tribal leadership — we had them all in my office — and Devon Energy. Devon was voluntarily relinquishing its leases in the Badger-Two Medicine area in Montana. This is a sacred site to the Blackfeet Nation. It's an area bordering Glacier National Park.

There's growing awareness that places are appropriate for development and some places are too special for development. EITI helps shine a spotlight on where development is happening, how important it is to the economy and our country to power our future, and also that it needs to be done in the right ways in the right places. You're helping shine a spotlight and put the data in a much more usable format than it would be available otherwise. I think that's really helpful.

The other thing I'd say is it was really chatty when I walked in here. I think that's terrific. Because we might be considered in some cases to be at opposite sides of issues, but when we come together as human beings with a common interest and love of our country, a common interest in economic development, and environmental protection. And if you're a company extracting resources, you want people to know how much you're contributing to the Treasury of the United States. This is exactly what you're doing. We shouldn't be sneaking around and we are not sneaking around.

From the first iteration of the website to where we are now it keeps getting easier to use, and more fun for recreational use. What you're also doing is providing a template, open source, that other people will use. The richest country in the world should be doing that. As the only G7 nation involved in this we are really putting ourselves out there. Open government data is really important.

I was in California for other business. I spent time visiting Google. Google has taken landsat data provided by USGS — what our nation's lands looked like since the satellite functions of 1970s. It's taken all of those magnetic tapes and put them in petabytes of machine-readable format. You can now go to Google Earth and look at a time lapse since the 70s, and see the changes in the landscape, see what's happened to reservoirs, see what's happened to development, see the impact that we have had, see what happened from Superstorm Sandy — it's very obvious when that came through. Open data, machine-readable data, accessible data, in a way that puts it in the hands of ordinary people, helps ordinary people make extraordinary decisions about not just the here but about future generations. That's what you've done with EITI. I want to congratulate you. Now we need to just get certified as an EITI country and then we can take what we've done to the rest of the world as we're already encouraging countries to do. I'm very proud of the work you do. Thank you.

To my colleagues in the Department of Interior who are going to be looking at a transition in political leadership but not a transition of career staff, the importance of staying the course on something like this I can't overstate enough. Those of you in civil society and the industry sectors, and other stakeholders, put yourself in the seat of our career staff right now who have no idea who they're going to be working for. It has got to be really difficult. Things like this help move our nation forward and there's no reason we should go backwards, and they won't because of the work you're doing in this multi-stakeholder group.

A profound thank you to all of you. This is will be my last meeting with all of you, I can guarantee that — unless I become a stakeholder, but I'll take a long break before I do that.

It has been a privilege and a pleasure to get to know your work, to meet with you in a setting like this, and see the contributions you've made that will make a difference not just now but for many generations to come. Thank you and congratulations.

Draft
Summary of Conclusions
Extractive Industry Transparency Initiative (EITI) Sub-PCC
Wednesday, August 30, 2017, 3:00 p.m. to 4:00 p.m.
EEOB 176

Participants:

Interior

Greg Gould
Judy Wilson

State

Micah Watson
Chanan Weissman

USAID

Erik Pacific
Jennifer Lewis

OMB

Ben Burnett

NSC

James Mazzaella
Tess McEnery
Robert Palladino
Nicholas Coleman

Discussion:

- The Department of the Interior (DOI) informed the interagency that it was impossible for USEITI to meet all eight of the requirements needed for compliance with ~~EITI's the EITI International standards~~. Withdrawal from domestic implementation of EITI, therefore, should happen as soon as feasible.
- The alternative approach (continue an appeal process which would take at least 18 months) would end up, according to DOI, at the same point of failure and therefore is not viable.
- The EITI's ~~transparency international secretariat's~~ rules ~~make require any country that fails failing to meet~~ any one of the eight tests ~~to take corrective actions, and failure to complete those corrective actions within the prescribed timeline will lead to grounds for suspension~~.
- On February 14, 2017, House Joint Resolution 41, enacted in accordance with the Congressional Review Act, repealed the SEC's final rule-regulations that implemented Sec. 1504 of the Dodd Frank Act. These regulations would have forced public disclosure by natural resource extractors of their payments to governments tax liabilities, a condition of certification for EITI. That type of disclosure is required under the EITI Standard.
 - DOI reports that without ~~these regulations~~ a strong final rule that implements Section 1504 EITI's international secretariat EITI will not ~~certify-validate~~ the United States as ~~being~~ in compliance with the EITI Standard. Other U.S. laws and practices which provide for the desired transparency will not meet the ~~secretariat's EITI~~ requirements.

Commented [W1]: The Secretariat does not make the rules or decide validations. The Board does both.

- The Interagency consensus was that, even if the USG appeals the predicted failed grade ~~from that the United States is likely to receive from the EITI Board following our April 2018 validation, EITI, and even if we and asserts the right of to mainstream USEITI's existing implementation effortsing,~~ an alternative approach that highlights ~~the U.S. other~~ transparency laws and practices, the U.S. will still be found out of compliance ~~and fail in 18 months.~~
- Additionally, to be in compliance, a multi-stakeholder (MSG) group would have to be reconstituted and at the current time, according to DOI, no path for a constructive dialogue with an MSG exists.
- ~~Validation deadline for~~ USEITI is scheduled to begin validation by the international secretariat on April 6th. If withdrawal does not occur before this date, the US ~~will could be on an irreversible path wherein withdrawal may not be possible until the EITI renders a verdictbe suspended and join countries such as Azerbaijan and Ethiopia.~~
- Despite extremely transparent US domestic federal, state and tribal institutions and laws, withdrawal from USEITI will have serious consequences for the USG push for transparency and anti-corruption overseas and could, if not handled properly, damage our efforts to achieve important foreign policy goals.
- There are also implications for withdrawing from EITI for the USG self-reporting process of the Open Government Partnership. Compliance with EITI has been part of the OGP plan for a number of years and timing on the withdrawal should take into account those deadlines. The report will be finalized in October.
- Given that a) the Department of the Interior would like to relinquish responsibility for EITI compliance and b) EITI is an international body, there was discussion on whether a different agency, such as the Department of State, would be a more appropriate interlocutor with the international secretariat ~~in Norway.~~
 - A withdrawal letter from State could, for example, more clearly express the USG support for international efforts on transparency.
 - The United States would, like many countries, remain a supporting country of the EITI, and perhaps even continue to serve on the EITI International Board in that capacity ~~member of the international body in a supportive role~~ even if domestic reporting was discontinued.
 - USAID made note of the fact it was considering a small grant to the international secretariat to help its efforts. This fact could be represented in the withdrawal letter to reinforce the USG respect for and continuing commitment to the mission of the international efforts.

Commented [W2]: The verdict, while probably negative, is not binary – there are four grades a country can receive.

It was agreed that:

- Withdrawal from USEITI implementation not later than April 6th (and earlier if feasible) would be in the best interests of the United States.
- The international equities, including reporting for the Open Government Partnership, and ~~messaging to U.S. embassy~~ messaging to relevant host governments ~~ies~~ are significant. Handled incorrectly, there could be severe consequences to the United States' reputation, internationally and domestically, as committed to the ideals of transparency and fighting corruption.
- Agencies will consult internally and revert back with a position on who should send the withdrawal letter (letter attached).

- State will brief relevant Posts and provide talking points, as appropriate. (attached).
- The DOI press office would be synced with the NSC and WH press office to handle questions based on agreed upon talking points that addressed the international ramifications of this situation.
- NSC DOI and State congressional teams should consider proactive outreach prior to USEITI withdrawal.
- USAID would research if/when it could announce funding to support the EITI-in-Norway international secretariat.
- This would be elevated to a PCC if warranted before action is taken.
- State and USAID would research how many countries had been suspended and how many have withdrawn from the validation process, and which those are. (attached) USAID will report on USG efforts to support EITI member countries' efforts to comply with EITI goals.

Mr. Fredrik Reinfeldt
Chair, EITI Board
Ruseløkkveien 26
0251 Oslo
Norway

Chair Reinfeldt,

~~As you know~~ the United States has made significant progress meeting individual requirements of the Extractive Industries Transparency Initiative (EITI) Standard since the ~~F~~fall of 2011, when the U.S. announced that it would begin the multi-year process of becoming an EITI ~~compliant~~ implementing country. The U.S. Department of the Interior (DOI) established ~~a the USEITI M~~ multi-stakeholder Group (MSG) in December 2012, and the United States achieved Candidate Country status in March 2014. Since its first meeting in 2013, the USEITI MSG has worked collaboratively to reach consensus on how to implement EITI in the United States. Perhaps USEITI's ~~our~~ most significant accomplishment ~~has been~~ the creation of an open source, open code interactive web-based data portal (<https://useiti.doi.gov>) on which ~~the agency~~ DOI has unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type, as well as production data across all commodities. This portal has truly set a new global standard in revenue governance transparency serving as a model in open data for the EITI Secretariat and other EITI countries. ~~We are~~ DOI is happy to report that use of this portal by state, local and tribal governments throughout the United States is increasing as well. The U. S. government remains committed to fighting corruption in the extractive industries sector, and the ideals of transparency enshrined in the EITI Principles and the EITI Standard. ~~It is clear that~~ Unfortunately, and despite the significant progress made by USEITI, implementation of the EITI Standard does not fully account in the United States is not feasibly for the U.S. due to the realities and requirements of our domestic legal framework. Effective immediately, therefore, the United States ~~must~~ has decided to withdraw as an EITI Implementing Country. ~~The U.S. Department of the Interior~~ DOI which maintains the primary role in the U.S. Government for the governance of energy and non-energy mineral resources, remains fully committed to institutionalizing the EITI principles of transparency and accountability consistent with U.S. law. ~~The Department of the Interior~~ DOI intends to mainstream government reporting of energy production and the associated revenue collection and disbursement. -The Department is also committed to continuing its efforts to promote public awareness and engage stakeholders in a public conversation of the potential impacts of proposed policies and regulations related to revenue collection from such development. ~~We~~ DOI will continue to unilaterally disclose revenue payments received for extractive operations on federal land through ~~our~~ the open data portal, and ~~we will~~ continue to improve ~~our~~ reporting through the inclusion of additional states and tribes.

As an EITI Supporting Country, the United States will continue to ~~work together to~~ promote transparency, fight corruption and ensure good governance as well as to support country-level EITI implementation.

Respectfully,

Greg Gould
Director, Office of Natural Resources Revenue and
USEITI Government Sector Co-Chair

DRAFT
August 2017 USEITI Talking Points
For Transmittal to Posts from Main State

- The United States has notified the EITI International Secretariat of our intention to withdraw as an implementing country.
- The United States is a strong supporter of good governance and transparency, which is why we have implemented the EITI Standard domestically. We have taken a leading role in EITI since its founding in 2003, and continue to support the EITI initiative and the principles it represents.
- Implementing the EITI Standard in the United States was a proactive step in the mainstreaming of EITI principles. It demonstrated that a strong commitment to transparency and accountability principles applies equally to developed and developing countries, providing an example for other OECD economies
- The multi-stakeholder group (MSG) known as “USEITI” will be dechartered as a Federal Advisory Committee. The Department of the Interior intends to continue to advise the Secretary on extractives transparency through the Royalty Policy Committee, which will hold its first meeting on October 4,.
- USEITI has made significant progress on domestic revenue transparency. The Department of the Interior intends to institutionalize transparency measures and mainstream government reporting of energy production and the associated revenue collection and disbursement.
- The Department of the Interior will continue to promote public awareness and engage stakeholders in a public conversation of the potential impacts of proposed policies and regulations related to revenue collection from such development.
- We will continue to unilaterally disclose revenue payments received for extractive operations on federal land through our open data portal, and we will continue to improve our reporting through the inclusion of additional states and tribes.
- Through the data portal, the Department of the Interior will continue to give the public more meaningful access to information about revenues received by the United States for the Nation’s natural resources.

TITLE SLIDE

Good morning. I am Judy Wilson. I work for the Office of Natural Resources Revenue, which is in the Secretary's Office of Policy Management and Budget.

The Department of the Interior has administered the mineral leasing program for Federal and American Indian lands for over a century.

ONRR collects, accounts for, and verifies natural resource and energy revenues due to States, American Indians, and the U.S. Treasury.

Between FY 1982 and 2016, ONRR has disbursed \$287 billion in revenue to the Nation, states, and American Indians

This morning, beginning with the Open Government Partnership as a backdrop, I would like to provide you a few highlights of our extractives industries data portal.

In 2011, the U.S. and seven other governments launched the global Open Government Partnership, a commitment to improve governance and increase citizen participation.

Countries around the world, including the U.S., develop country action plans identifying commitments that promote those principles. In the 1st, 2nd, and 3rd U.S. National Action Plans, the U.S. committed to:

- Ensure that taxpayers receive every dollar due for extraction of our natural resources, building on reforms in the management of our natural resources; and

- Work in partnership with industry and citizens to develop a plan to disclose relevant information, creating additional "sunshine" for the process of collecting revenues from natural resource extraction and enhancing the accountability and transparency of our revenue collection efforts.

The data portal I am about to show you was developed as a pilot in 2014 and has been enhanced every year since then in response to these commitments. We think it will prove to be a valuable resource for you and your ensuing discussions.

SITE NAVIGATION SLIDE

This data Portal is an official government website. The content is restricted to government (federal, state and local) information and data. A multi-stakeholder advisory committee comprised of industry, federal, state and Tribal government and public / civil society

representatives approved by consensus all content that appears on this site. The address for the site is useiti.doi.gov.

Navigating the site is relatively simple. You can either use a series of quick launch bars or select one of several modular blocks on the home page.

GOVERNANCE OF U.S. RESOURCE EXTRACTION SLIDE

The “HOW IT WORKS” quick launch takes you to the information that focuses on the governance and processes associated with energy and non-energy mineral resources.

For example, you can quickly access the Federal, State and Tribal laws and regulations.

WHO IS RESPONSIBLE AT THE FEDERAL LEVEL SLIDE

On the ABOUT Page provides high-level information regarding energy and minerals governance responsibilities, divided among the Department entities:

- Bureau of Indian Affairs (BIA)
- Bureau of Land Management (BLM)
- Bureau of Ocean Energy Management (BOEM)
- Bureau of Safety and Environmental Enforcement (BSEE)
- Office of Natural Resources Revenue (ONRR)

HOW RESOURCES ON FEDERAL LANDS RESULT IN REVENUE SLIDE

There are modules on the home page that take you to our archived Executive Summaries. The 2015 Executive is perhaps the most encompassing and helpful for depicting for the first time how Natural Resources on Federal Lands Result in DOI Revenue (PG 39) in a visual format.

ENERGY AND MINERAL RESOURCES REVENUE STREAMS SLIDE

Another very useful graphic (PG 46) in this Executive Summary visually depicts for the first time, the Federal Revenue Streams and the Statutory and Regulatory Rates by Resource Commodity.

HOW NATURAL RESOURCES RESULT IN FEDERAL REVENUES SLIDE

Still accessible by means of the “How it Works Quick Launch” one can learn about the governance processes, responsible Bureaus, opportunities for Public Engagement, and the associated Revenue Streams collected for Oil and Gas, Coal, Non-Energy Minerals, and Renewables.

FEDERAL PRODUCTION SLIDE

Now, I would like to draw your attention on the HOME PAGE to the “EXPLORE DATA” quick Launch Bar. Everything here, the information and the data has a geographic component.

On this part of the Data Portal you will find data related to Production, Revenue, Disbursements, and Economic Impact both Nation-wide and with-in State and County boundaries for all commodities.

The Nation-Wide data is presented for a ten-year span, by commodity to provide a quick trending visual.

FEDERAL REVENUES SLIDE

When visualizing the Revenues on Federal Lands, you will see the most recent complete year (2016) total revenues received by commodity and production phase when using the Federal Revenue by Phase Tab OR

When using the Revenue Details by Phase Tab, you will see the revenues by phase and the associated statutory rates.

FEDERAL REVENUE BY COMMODITY SLIDE

Every visualization on the data portal has an associated link to the data and documentation for that visual.

Also note that when viewing the Federal Revenues by Commodity you are again seeing a ten-year span to provide a quick trending visual.

NATIONAL AND LOCAL DATA SLIDE

When exploring data with a geographic reference, at the State level (for example Wyoming) the data we used comes from the Energy Information Administration and it includes data about all energy-related natural resources produced on federal, state, and privately owned land.

Once you drill down to Federal lands within the State you are able to visualize the federal production data at the County level of granularity.

FEDERAL REVENUE BY COMPANY SLIDE

While you can visualize the relative contribution of revenue streams by commodity using the EXPLORE DATA Quick Launch Bar; for the first time in 2015 ONRR began making available to the public an even more interesting data set which you can access using the HOW-IT-WORKS Quick Launch bar, and select Revenues under Resources to Revenues on the right side navigator.

You can filter this data aggregated at the Company level, by year (2013-2016), commodity, or revenue stream.

DOWNLOAD DATA SLIDE

There are two different ways to access the actual DOI/ONRR data sets associated with revenues and production.

One is to click on the “DATA AND DOCUMENTATION LINK” associated with each visual.

The other way is to go back to the home page and at the top of any page select the “DOWNLOADS” quick launch tab. This is where we provide you the direct link to the data that powers the many interactive visualizations on the page.

COMING SOON SLIDE

On last note, we will continue to roll out and update revenue and production data on this data portal in a dynamic fashion, as complete fiscal year and calendar year data sets become available. Also new this year, will be an addition to the Federal Revenue Aggregated by Company. We are providing additional geographic information for revenue streams onshore within a state boundary or if offshore in a particular area.

March 2017 USEITI Talking Points for use with Civil Society Organizations

- The United States remains a strong supporter of EITI and continues to implement the EITI Standard domestically. We have supported and played a leadership role in EITI since its founding almost 14 years ago.
- Implementing the EITI Standard domestically moved the global conversation about extractive transparency forward. It advanced the mainstreaming of EITI principles and encouraged additional OECD economies to implement the EITI Standard. Implementing the Standard domestically also demonstrated that a strong commitment to transparency and accountability principles applies equally to developed and developing countries.
- The multi-stakeholder group (MSG) known as “USEITI” remains chartered as a Federal Advisory Committee with responsibility to advise on the domestic implementation of the Standard. ~~and continues to oversee domestic implementation of USEITI. The USEITI MSG is no longer scheduled to meet during the remainder of 2017.~~
- It is important to note the significant progress that USEITI has made over the past four years. The Department of the Interior intends to institutionalize EITI and mainstream government reporting of energy production and the associated revenue collection and disbursement.
- In addition, the Department of the Interior will continue to promote public awareness and engage stakeholders in a public conversation of the potential impacts of proposed policies and regulations related to revenue collection from such development.
- No decision has been made by the U.S. government on future implementation of EITI. Any future change in our implementation will be announced publicly.

March 2017 USEITI Talking Points for use with EITI and Foreign Governments

- The United States remains a strong supporter of EITI and continues to implement the EITI Standard domestically. We have supported and played a leadership role in EITI since its founding almost 14 years ago. Promotion and support of EITI is a key component of U.S. efforts to advance transparency in the extractive industries worldwide.
- Implementing the EITI Standard domestically moved the global conversation about extractive transparency forward. It advanced the mainstreaming of EITI principles and encouraged additional OECD economies to implement the EITI Standard. Implementing the Standard domestically also demonstrated that a strong commitment to transparency and accountability principles applies equally to developed and developing countries.
- The multi-stakeholder group (MSG) known as “USEITI” remains chartered and has responsibility to advise on the ~~continues to oversee~~ domestic implementation of the Standard ~~USEITI.~~

- Unfortunately the Department of the Interior's decision to cancel the remaining ~~final~~ two MSG meetings scheduled for 2017 has led to confusion and speculation.
- It is important to note the significant progress that USEITI has made over the past four years. The Department of the Interior intends to institutionalize EITI and mainstream government reporting of energy production and the associated revenue collection and disbursement.
- In addition, the Department of the Interior will continue to promote public awareness and engage stakeholders in a public conversation of the potential impacts of proposed policies and regulations related to revenue collection from such development.
- No decision has been made by the U.S. government on future implementation of EITI. As with any transition of Administrations, we are currently reviewing our approach to many public initiatives.
- Any future change in our EITI implementation will be announced publicly.

Terminating the USEITI Federal Advisory Committee

The USEITI Federal Advisory Committee was established in August 2012. The Committee's purpose was to serve as the initial EITI Multistakeholder Group (MSG) and its duties included consideration and fulfillment of the tasks required to achieve candidate and compliant status in the EITI. The Committee's Charter was renewed in 2014, and again in 2016. The MSG each year developed and recommended to the Secretary a fully-costed work plan, containing measurable targets and a timetable for implementation, and an assessment of capacity constraints. Each year the MSG developed and recommended to the Secretary an Annual Activity Report documenting the decisions and accomplishment, and progress in meeting the EITI Standard. The MSG advised the Secretary on long-term oversight and other activities necessary to achieve EITI candidate and compliant status.

On December 11, 2013, the MSG approved the U.S. EITI Candidacy Application. On December 19, 2013, the Secretary of the Interior submitted the Application to the EITI International Board who formally accepted the Application on March 19, 2014. The U.S. became the first G7 country to achieve Candidate Country status.

Key successes include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally discloses 2013, 2014, 2015, 2016 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency. The Annual Reports provide clarity and transparency of the revenues generated by energy development on public lands and waters—a significant source of financial support for local communities, States, Tribes, and the Federal Government. To date, four states (Montana, Wyoming, Alaska, and Colorado) opted-in to USEITI, allowing for expanded State reporting of extractive revenues.

The U.S. is scheduled to produce its third Annual Report in December 2017 and undergo independent, third party validation April 1, 2018. In May 2017, the DOI Office of the Inspector General released a final inspection report on the U.S. implementation of the EITI. The report included observations and no recommendations. Their review found the U.S. has met 8 of the 9 elements of the standard but will not be found in compliance with the EITI standard because of low level disclosure of revenues by Companies (particularly tax payments) thus impeding independent reconciliation of payments and receipts. The EITI Board is likely to find USEITI to have made inadequate progress or be suspended.

The Department, through ONRR will continue to mainstream (publicly disclose) DOI revenue reporting in lieu of redundant company reporting and Independent Administrator reconciliation. The Department, as managed by ONRR, has robust audit and assurances practices in place to demonstrate accountability for the revenues paid and received for our country's oil, gas, and mineral resources.

The USEIT MSG has therefore fulfilled its responsibilities to the Secretary as documented in the Charter and will now be terminated in the fall of 2017.

Memorandum

To: Amy Holley
Acting Assistant Secretary for Policy, Management and Budget

Through: Greg Gould
Director, Office of Natural Resources Revenue

From: Judith Wilson
Program Manager, U.S. Extractive Industries Transparency Initiative Secretariat

Subject: Response to the Honorable the Honorable Raúl M. Grijalva, Ranking Member, House
Natural Resources Committee

Attached for your review and signature is the response to the Honorable Raúl M. Grijalva, Ranking Member, House Natural Resources Committee, for his letter regarding the status of Department of the Interior's implementation of the Extractive Industries Transparency Initiative Standard.

I recommend that you sign the attached letter.

Attachment

OFFICE: Office of Natural Resources Revenue (ONRR)
MEMBER: General Interest
ISSUE: U.S. Extractive Industries Transparency Initiative

Key Points: The U.S. government committed to implementing EITI in the U.S. (USEITI) in 2011 and in the spring of 2012 designated the Department of the Interior the lead Agency for implementing USEITI. Implementing USEITI provides additional oversight of the collection and disbursement of the Nation's mineral resources revenues. USEITI successfully completed the initial requirements to join EITI as a candidate country when accepted by the International EITI Board in March 2014. Key successes include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally discloses 2013, 2014, and 2015 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency.

Background: The Extractive Industries Transparency Initiative, or EITI, is a voluntary, global effort designed to strengthen accountability and public trust for the revenues paid and received for a country's oil, gas, and mineral resources. Beyond identifying opportunities for reform, a major outcome of implementing the standard is to engage the public and increase public dialogue on the issues surrounding governance of extractive industry revenues and activities. EITI brings together a coalition of government, companies, and civil society (the Multistakeholder Group or MSG), to oversee the domestic implementation of the voluntary framework in which governments disclose revenues received from oil, gas, and mining assets, in with parallel disclosure by companies of what they have paid to the government in royalties, rents, bonuses, taxes, and other payments. In March 2014, the U.S. became the first G7 country to achieve Candidate Country status. Both the United Kingdom and Germany have followed the U.S. lead and have both become Candidate countries. The Annual Reports provide clarity and transparency of the revenues generated by energy development on public lands and waters—a significant source of financial support for local communities, States, Tribes, and the Federal Government. In the spring of 2016, three states (Montana, Wyoming, and Alaska) opted-in to USEITI, allowing for expanded State reporting of extractive revenues.

Current: The U.S. is scheduled to produce its third Annual Report in December 2017 and undergo validation April 1, 2018. Validation is an independent, external and impartial process that serves to assess performance and promote dialogue and learning at the country level. It also safeguards the integrity of the EITI by holding all EITI implementing countries to the same global Standard. USEITI has met 8 of the 9 elements of the standard but will not be found in compliance with the EITI standard until companies timely and comprehensively report tax revenues, project-level non-tax revenues, and beneficial owners. The EITI Board is likely to find USEITI to have made inadequate progress or be suspended. ONRR will begin mainstreaming DOI revenue reporting and institutionalizing EITI processes. ONRR will no longer support an Independent Administrator to reconcile government revenue disclosures with company disclosed payments and can reduce the funding needed for this effort.

Prepared by: Greg Gould, ONRR Director, (303) 231-XXXX
Date: May 5, 2017

UNITED STATES EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE
MULTI-STAKEHOLDER GROUP CO-CHAIRS MEETING
MAY 11, 2017

MEETING SUMMARY

Background

The USEITI MSG co-chairs, along with a colleague from each other their sectors, met with representatives from the EITI International Secretariat and the US Department of State to discuss possible future directions for USEITI. This meeting took place on May 11, 2017 in Washington DC.

This summary provides a high-level synthesis of the key options with regards to the future direction of USEITI explored during the meeting. No decisions about USEITI's future were made at this meeting. Rather, each sector will discuss internally and the co-chairs are planning to reconvene on June 22 for an anticipated decision on that date.

Options Considered for USEITI's Future

Meeting participants considered the following four options for the future of USEITI:

- 1) Request a temporary, voluntary suspension from EITI
- 2) The International EITI Board could create a new path for USEITI to continue under different requirements / protocols
- 3) Mainstreaming of USEITI reporting into US government reporting
- 4) Withdrawal of the United States from EITI

Option 1: Request a temporary, voluntary suspension from EITI

In this option, the US government would formally write to the International EITI board for a two-year "pause" on implementation of EITI in the United States. The following activities would take place during this two-year pause:

- Congress and the SEC will have time to move forward around the Dodd-Frank Act, and specifically rule making under Section 1504 of the Dodd-Frank Act, which will clarify publicly traded USEITI-participating companies' requirements for corporate income tax disclosure.
- ONRR will continue to update the online data portal (the USEITI website) on a regular basis with unilateral disclosure of non-tax revenues from the US government. ONRR will also proceed with a pilot rollout of one state's revenue information. The USEITI name would be removed from the website for the duration of the pause.
- There would *not* be any USEITI MSG meetings held.
- Ambassador Warlick will continue participating on the EITI International Board.

- There is an opportunity to see if the EITI Standard evolves in a way to allow greater flexibility for countries like the United States that have very robust transparency and reporting procedures already in place.
- The CSO and industry sectors can explore whether to pursue outreach and advocacy efforts to the government to create a true multistakeholder forum for the USEITI MSG that is not constrained by FACA.

Considerations around this option:

- The provision in the EITI Standard outlining the conditions in which an implementing country can request a “pause” generally is envisioned for situations of civil conflict in the form of a coup or civil war.
- Inherent in the concept of a “pause” is that there exists a clear pathway and timeframe for USEITI to restart its work in compliance with the EITI Standard and have a strong case for validation.
 - Outstanding questions about the prospects for corporate income tax reporting in quantities that would meet the requirements of the EITI Standard in the United States raise questions about USEITI’s future pathway to validation under the EITI Standard.
 - Standing up the USEITI MSG as a FACA subcommittee within the Department of the Interior may need to be revisited. FACA committees are advisory to the US Government, whereas EITI MSGs are intended to be independent decision-making bodies.

Option 2: The International EITI Board could create a new path for USEITI to continue under different requirements / protocols

In this option, USEITI would send a letter to the EITI International Board explaining its context and situation. The letter would detail what steps USEITI is able to take and in what ways it anticipates being able to meet or exceed elements of the EITI Standard. The letter would also detail challenges that USEITI is facing and which elements of the Standard it does not anticipate being able to comply with. The EITI International Board, as the creator of the Standard and as the ultimate decision-making body for EITI, would then decide how to handle USEITI’s situation and could create a new pathway for countries in a similar situation to continue participating or sign up to EITI.

Considerations around this option:

- It is unknown how the EITI International Board will approach the US’ case. Given the ongoing uncertainty about corporate income tax reporting as part of USEITI, risk exists that USEITI and the US government are not looked upon favorably by members of the International Board and that the reputations of the United States and of USEITI are degraded.

Option 3: Mainstreaming of USEITI reporting into US government reporting

In this option, the US Government would include reporting of the elements included in the EITI Standard through its own channels in lieu of publication of an independent USEITI report.

Considerations around this option:

- The mainstreaming concept, as articulated in the EITI Standard, is intended to preserve the same comprehensiveness and granularity of reporting as is done under standard EITI reporting (in which EITI implementing countries publish annual EITI reports). Given the ongoing uncertainty about corporate income tax reporting as part of USEITI, as well as the recent decision by the USEITI MSG to rely on the government's existing audit and assurance processes, USEITI would be deviating in two significant respects from the EITI Standard.

Option 4: Withdrawal of the United States from EITI

In this option, the US Government would submit a letter to the EITI International Board articulating its decision to withdraw from EITI. The letter could come from any member of the US Government who is able to speak on the government's behalf with regards to this decision. The EITI Secretariat indicated that EITI would not need the letter to articulate why the US Government is making this decision.

With this option, ONRR could also continue to update the online data portal (the USEITI website) on a regular basis with unilateral disclosure of non-tax revenues from the US government. ONRR will also proceed with a pilot rollout of one state's revenue information. The USEITI name would be removed from the website. In addition, the Department of the Interior could maintain the USEITI website, containing MSG meeting information and other materials, as a publicly available website.

Considerations around this option:

- The reputational risk to USEITI and to the US Government would be time-limited. The government has already been accused of giving up on transparency and, while this accusation will be made again with the official announcement of withdrawal, the decision will conclude the matter.
- The nature of the letter and how much support it can receive from members of the other sectors will affect the nature of press coverage and reputational impact of the withdrawal decision.
- Implications for ongoing US' support of EITI, including representation on the EITI International Board, are unknown and will need to be explored.
- Withdrawal of the United States from EITI could negatively influence perceptions of EITI in some countries and among some companies.

Additional Key Considerations and Next Steps

Meeting participants also discussed the pending release of a report by the Department of the Interior's Office of Inspector General. The report is expected to be released the

week of May 15 and is anticipated to say that USEITI successfully met 8 of the 9 elements of the EITI Standard and has expended \$6.2 million in 2016.

No decisions about USEITI's future were made at this meeting. Rather, each sector will discuss internally and the co-chairs are planning to reconvene on June 22 for an anticipated decision on that date.

Meeting Participants

<i>Discussion participants</i>	
Sam Bartlett <i>(via phone)</i>	EITI Secretariat
Danielle Brian	Project on Government Oversight, USEITI MSG Advisory Committee Co-Chair from CSO sector
Greg Gould	US Department of the Interior, USEITI MSG Advisory Committee Co-Chair from government sector
Veronika Kohler Shime	National Mining Association, USEITI MSG Advisory Committee Co-Chair from industry sector
Jonas Moberg	EITI Secretariat
Isabel Munilla	Oxfam America, CSO sector representative
Johanna Nesseth	Chevron, industry sector representative
Micah Watson	US Department of State
Judy Wilson	US Department of the Interior, government sector representative
<i>Process support</i>	
Tushar Kansal	Consensus Building Institute

UNITED STATES EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE
MULTI-STAKEHOLDER GROUP CO-CHAIRS MEETING
MAY 11, 2017

MEETING SUMMARY

Background

The USEITI MSG co-chairs, along with a colleague from each other their sectors, met with representatives from the EITI International Secretariat and the US Department of State to discuss possible future directions for USEITI. This meeting took place on May 11, 2017 in Washington DC.

This summary provides a high-level synthesis of the key options with regards to the future direction of USEITI explored during the meeting. Some of these options were mooted by the USEITI co-chairs and some by the EITI International Secretariat, as noted below. No decisions about USEITI's future were made at this meeting. Rather, each sector will discuss internally and the co-chairs are planning to reconvene on June 22 for an anticipated decision on that date.

Options Considered for USEITI's Future

Meeting participants considered the following four options for the future of USEITI:

- 1) Request a temporary, voluntary suspension from EITI
- 2) The International EITI Board could create a new path for USEITI to continue under different requirements / protocols
- 3) Mainstreaming of USEITI reporting into US government reporting
- 4) Withdrawal of the United States from EITI

Option 1: Request a temporary, voluntary suspension from EITI

In this option, mooted by the government sector co-chair, the US government would formally write to the International EITI board for a two-year "pause" on implementation of EITI in the United States. The following activities would take place during this two-year pause:

- Congress and the SEC will have time to move forward around the Dodd-Frank Act, and specifically rule making under Section 1504 of the Dodd-Frank Act, which will clarify publicly traded USEITI-participating companies' requirements for corporate income tax disclosure.
- ONRR will continue to update the online data portal (the USEITI website) on a regular basis with unilateral disclosure of non-tax revenues from the US government. ONRR will also proceed with a pilot rollout of one state's revenue information. The USEITI name would be removed from the website for the duration of the pause.

- There would *not* be any USEITI MSG meetings held.
- Ambassador Warlick will continue participating on the EITI International Board.
- There is an opportunity to see if the EITI Standard evolves in a way to allow greater flexibility for countries like the United States that have very robust transparency and reporting procedures already in place.
- The CSO and industry sectors can explore whether to pursue outreach and advocacy efforts to the government to create a true multistakeholder forum for the USEITI MSG that is not constrained by FACA.

Considerations around this option:

- The provision in the EITI Standard outlining the conditions in which an implementing country can request a “pause” generally is envisioned for situations of civil conflict in the form of a coup or civil war.
- Inherent in the concept of a “pause” is that there exists a clear pathway and timeframe for USEITI to restart its work in compliance with the EITI Standard and have a strong case for validation.
 - Outstanding questions about the prospects for corporate income tax reporting in quantities that would meet the requirements of the EITI Standard in the United States raise questions about USEITI’s future pathway to validation under the EITI Standard.
 - Standing up the USEITI MSG as a FACA subcommittee within the Department of the Interior may need to be revisited. FACA committees are advisory to the US Government, whereas EITI MSGs are intended to be independent decision-making bodies.

Option 2: The International EITI Board could create a new path for USEITI to continue under different requirements / protocols

In this option, mooted by the EITI Secretariat, USEITI would send a letter to the EITI International Board explaining its context and situation. The letter would detail what steps USEITI is able to take and in what ways it anticipates being able to meet or exceed elements of the EITI Standard. The letter would also detail challenges that USEITI is facing and which elements of the Standard it does not anticipate being able to comply with. The EITI International Board, as the creator of the Standard and as the ultimate decision-making body for EITI, would then decide how to handle USEITI’s situation and could create a new pathway for countries in a similar situation to continue participating or sign up to EITI.

Considerations around this option:

- It is unknown how the EITI International Board will approach the US’ case. Given the ongoing uncertainty about corporate income tax reporting as part of USEITI, risk exists that USEITI and the US government are not looked upon favorably by

members of the International Board and that the reputations of the United States and of USEITI are degraded.

Option 3: Mainstreaming of USEITI reporting into US government reporting

In this option, mooted by the USEITI government sector co-chair, the US Government would include reporting of the elements included in the EITI Standard through its own channels in lieu of publication of an independent USEITI report.

Considerations around this option:

- The mainstreaming concept, as articulated in the EITI Standard, is intended to preserve the same comprehensiveness and granularity of reporting as is done under standard EITI reporting (in which EITI implementing countries publish annual EITI reports). Given the ongoing uncertainty about corporate income tax reporting as part of USEITI, as well as the recent decision by the USEITI MSG to rely on the government's existing audit and assurance processes, USEITI would be deviating in two significant respects from the EITI Standard. As USEITI has done in the past, it could request "adapted implementation" under the EITI Standard as part of mainstreamed reporting, but such a request may not be looked upon favorably given the presumption towards maintaining the same comprehensiveness and granularity of reporting as is done under standard EITI reporting.

Option 4: Withdrawal of the United States from EITI

In this option, mooted by the USEITI government sector co-chair, the US Government would submit a letter to the EITI International Board articulating its decision to withdraw from EITI. The letter could come from any member of the US Government who is able to speak on the government's behalf with regards to this decision. The EITI Secretariat indicated that EITI would not need the letter to articulate why the US Government is making this decision. CSO sector representatives suggested that including some indication as to *why* the US is withdrawing from EITI could reduce some of the criticism that may be leveled against USEITI and against the US government for a decision to withdraw. Representatives from the EITI International Secretariat and the government sector cautioned against including explanatory language about the decision to withdraw, suggesting that it would likely be very difficult to craft language that all three USEITI sectors could agree on. Instead, these participants suggested keeping the letter relatively brief. Various meeting participants suggested citing the DOI Inspector General's report and highlighting USEITI's record of accomplishments in the letter.

With this option, ONRR could also continue to update the online data portal (the USEITI website) on a regular basis with unilateral disclosure of non-tax revenues from the US government. ONRR will also proceed with a pilot rollout of one state's revenue information. The USEITI name would be removed from the website. In addition, the

Department of the Interior could maintain the USEITI website, containing MSG meeting information and other materials, as a publicly available website.

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- The reputational risk to USEITI and to the US Government would be time-limited. The government has already been accused of giving up on transparency and, while this accusation will be made again with the official announcement of withdrawal, the decision will conclude the matter.
- The nature of the letter and how much support it can receive from members of the other sectors will affect the nature of press coverage and reputational impact of the withdrawal decision.
- Implications for ongoing US' support of EITI, including representation on the EITI International Board, are unknown and will need to be explored.
- Withdrawal of the United States from EITI could negatively influence perceptions of EITI in some countries and among some companies.

Additional Key Considerations and Next Steps

Meeting participants also discussed the pending release of a report by the Department of the Interior's Office of Inspector General. The report is expected to be released the week of May 15 and is anticipated to say that USEITI successfully met 8 of the 9 elements of the EITI Standard and has expended \$6.2 million in 2016.

No decisions about USEITI's future were made at this meeting. Rather, each sector will discuss internally and the co-chairs are planning to reconvene on June 22 for an anticipated decision on that date.

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Greg Gould	US Department of the Interior, USEITI MSG Advisory Committee Co-Chair from government sector
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Jonas Moberg	EITI Secretariat
Isabel Munilla	Oxfam America, CSO sector representative
Johanna Nesseth	Chevron, industry sector representative
Micah Watson	US Department of State
Judy Wilson	US Department of the Interior, government sector representative

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USEITI ACCOMPLISHMENTS

Talking Points

- In September 2011, as part of the U.S. Open Government Partnership, the Office of Natural Resources Revenue (ONRR) began collaborating with other government Agencies, Departmental Bureaus and offices, and industry and civil society stakeholders, to implement the United States Extractive Industries Transparency Initiative (USEITI). Since its first public meeting in 2013, through to its 20th meeting in 2017, the USEITI Multistakeholder Group worked collaboratively to successfully reach consensus on how to implement USEITI. This initiative highlights the U.S.'s commitment to transparency and good governance of domestic extractive sector revenues.
- In March 2014, the U.S. became the first G7 and second OECD country to achieve Candidate Country status and become an EITI implementing country.
- In December 2015 the first online Report and Executive Summary were published on the DOI data portal and in November 2016 the second online Report and Executive Summary were published. ONRR will complete a third online report in December 2017.
- Through the 2015 and 2016 Reports, the DOI was able to demonstrate, due to our robust audit and assurance practices, zero unresolved discrepancies between federal government disclosed revenues received from oil, gas, and mining companies, with parallel disclosure by companies of what they have paid to the government in royalties, rents, bonuses, taxes, and other payments.
- The DOI data portal was built with modern, open-source technologies so that techniques and tools can be shared and replicated throughout the U.S. and in other EITI countries around the world. The public can access and interact with the portal on a desktop, lap top, tablet or smart phone. The website's data sets and visualizations can also be reused for strategic reporting and reposted and sent through social media, thus further informing the public and open debate on the extractives industry in the U.S.
- The DOI launched online data portal allows for easy access to data about the extractive industries in the U.S. (<https://useiti.doi.gov/>). Our approach represents a paradigm shift from the government deciding what information is important and relevant to the public and how to convey that information to partnering with the public to understand what is important and asking the public how they can best receive information.
- In 2014, for the first time, the DOI unilaterally disclosed production data and calendar year revenue data by company, revenue type, and commodity. DOI unilaterally disclosed for calendar years 2013-2015, \$33.1 billion in revenues paid by companies for extraction on federal lands and waters.

- In the spring of 2016, three states (Montana, Wyoming, and Alaska) opted-in to USEITI, allowing for expanded State reporting of extractive revenues. This collaboration with states expands public access to local-level natural resource data on revenues, distribution of those revenues, and legal and fiscal governance of the extractive industries, as well as the economic impact of extraction in their states.
- The interactive data portal also is a proven demonstration of mainstreaming revenue collection and energy related data across all Interior Bureaus and provides Department of the Interior company-level revenue data by revenue stream and commodity. Not only does this report makes us more accountable to the American people, but on a on a global scale our user-centered design approach and commitment to open data and open source code internationally recognized as exemplary best practice in reporting revenue data.
- Publishing two Reports combined with diligent outreach efforts has led to increased citizen participation, enhanced access to data to inform public debate, improved management of public resources, and increased government collaboration and overall transparency.
- In the long term, extractive industry transparency should not be confined to EITI reporting, but become an integral part of how government manages. Therefore, at DOI we have initiated steps to move towards institutionalizing innovation in digital services and mainstreaming government extractives revenue data pipelines and end-user needs.
- EITI fits within ONRR's guiding principles of Accountability, Professionalism, Integrity, Partnerships and Innovation and guiding vision to be recognized as a world-class natural resources revenue management program, setting the standard for accountability and transparency.

OFFICE: Office of Natural Resources Revenue (ONRR)
MEMBER: General Interest
ISSUE: U.S. Extractive Industries Transparency Initiative (USEITI)

Key Points:

- Under the leadership of the Director, Office of Natural Resources Revenue and the Program Manager of the U.S. Extractive Industries Transparency Initiative (USEITI), the Department of the Interior is leading the implementation of the 2016 EITI Standard.
- In March 2014, the U.S. became the first G7 country to achieve Candidate Country status and become an EITI implementing country.
- Interior achieved an important milestone in December 2015, when it raised the bar on transparency of natural resource revenue governance with the release of the first annual USEITI Report.
- This innovative and interactive, web-based report offers a wealth of information to the public in a comprehensive and accessible fashion and is another step in efforts to reform and modernize natural resource revenue management by the Department.

Background:

- EITI is a global voluntary partnership to strengthen the accountability of natural resource revenue reporting and build public trust for the governance of these vital activities.
- EITI offers a voluntary framework for governments to disclose revenues received from oil, gas, and mining assets belonging to the state, with parallel disclosure by companies of what they have paid the government in royalties, rents, bonuses, taxes and other payments.
- The USEITI Report provides clarity and transparency on the revenues generated by energy development on public lands and waters—a significant source of financial support for local communities, States, Tribes, and the Nation.
- The design of each EITI framework is country-specific, and is developed through a collaborative process by a Multi-Stakeholder Group (MSG) comprised of government, industry, and civil society representatives. The MSG ensures opportunities for collaboration and consultation among stakeholders so that every decision reflects each of the stakeholder sectors.
- The EITI principles align with the administration's pledge of a more transparent, participatory, and collaborative government and USEITI implementation supports the International Open Government Partnership.

Prepared by: Gregory J. Gould, ONRR Director, (202) 513-0600

Date: January 22, 2016

OFFICE: Office of Natural Resources Revenue (ONRR)
MEMBER: General Interest
ISSUE: U.S. Extractive Industries Transparency Initiative

Key Points:

- The U.S. government committed to implementing EITI in the U.S. (USEITI) in 2011 and in the spring of 2012 designated the Department of the Interior the lead Agency for implementing USEITI. Implementing USEITI provides additional oversight of the collection and disbursement of the Nation's mineral resources revenues. USEITI successfully completed the initial requirements to join EITI as a candidate country when accepted by the International EITI Board in March 2014. Key successes include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally discloses 2013, 2014, and 2015 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency.

Background:

- The Extractive Industries Transparency Initiative is a voluntary, global effort designed to strengthen accountability and public trust for the revenues paid and received for a country's oil, gas, and mineral resources. EITI brings together a coalition of government, companies, and civil society (the Multistakeholder Group or MSG), to oversee the domestic implementation of the voluntary framework in which governments disclose revenues received from oil, gas, and mining assets, with parallel disclosure by companies of what they have paid to the government in royalties, rents, bonuses, taxes, and other payments. In March 2014, the U.S. became the first G7 country to achieve Candidate Country status. Both the United Kingdom and Germany have followed the U.S. lead and have both become Candidate countries. The Annual Reports provide clarity and transparency of the revenues generated by energy development on public lands and waters—a significant source of financial support for local communities, States, Tribes, and the Federal Government. In the spring of 2016, three states (Montana, Wyoming, and Alaska) opted-in to USEITI, allowing for expanded State reporting of extractive revenues.

Current:

- The U.S. is scheduled to produce its third Annual Report in December 2017 and undergo validation April 1, 2018. Validation is an independent, external and impartial process that serves to assess performance and promote dialogue and learning at the country level. It also safeguards the integrity of the EITI by holding all EITI implementing countries to the same global Standard. USEITI has met 8 of the 9 elements of the standard but will not be found in compliance with the EITI standard until companies timely and comprehensively report tax revenues, project-level non-tax revenues, and beneficial owners. The EITI Board is likely to find USEITI to have made inadequate progress or be suspended. ONRR will begin mainstreaming DOI revenue reporting and institutionalizing EITI processes.

Prepared by: Gregory J. Gould, Director, Office of Natural Resources Revenue, (303) 231-3429
Date: May 10, 2017

OFFICE: Office of Natural Resources Revenue (ONRR)

MEMBER: General Interest

ISSUE: U.S. Extractive Industries Transparency Initiative (EITI)

Key Points:

- The U.S. government committed to implementing EITI in the U.S. (USEITI) in 2011 and in the spring of 2012 designated the Department of the Interior the lead Agency for implementing USEITI.
- The USEITI Federal Advisory Committee was established in August 2012. The Committee's purpose was to serve as the EITI Multistakeholder Group (MSG) and its duties included consideration and fulfillment of the tasks required to achieve candidate and compliant status in the EITI.
- USEITI successfully completed the initial requirements to join EITI as a candidate country when accepted by the International EITI Board in March 2014.
- Key successes include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally discloses 2013, 2014, 2015 and 2016 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency.
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- The U.S. became the first G7 country and the second OECD country to achieve Candidate Country status and become an EITI implementing country. Since the first public meeting in 2013, through to the 20th meeting in 2017, the USEITI MSG worked collaboratively to successfully reach consensus on how to implement USEITI.

Current:

- The U.S. is scheduled to produce its third Annual Report in December 2017 and undergo independent third party validation April 1, 2018. USEITI has met 8 of the 9 elements of the standard but will not be found in compliance with the EITI standard until companies timely and comprehensively report tax revenues, project-level non-tax revenues, and beneficial owners. The EITI Board is likely to find USEITI to have made inadequate progress and suspend the U.S. Consistent with EITI principles ONRR will continue mainstreaming DOI revenue reporting and institutionalize EITI processes.

Prepared by: Gregory J. Gould, Director, Office of Natural Resources Revenue, (303) 231-3429

Date: October 5, 2017

The Honorable Raúl M. Grijalva
Ranking Member
Committee on Natural Resources
House of Representatives
Washington, DC 20515

Dear Mr. Grijalva:

The Secretary asked me to respond to your letter dated June 6, 2017, regarding your interest in the Department of the Interior's efforts to implement the Extractive Industries Transparency Initiative (EITI) Standard. Implementing the EITI Standard domestically moved the global conversation about extractive transparency forward. It advanced the mainstreaming of EITI principles and encouraged additional Organisation for Economic Co-operation and Development countries to implement the EITI Standard. Implementing the Standard domestically also demonstrated that a strong commitment to transparency and accountability principles applies equally to developed and developing countries.

In 2012, the U.S. began implementing EITI in the U.S. (USEITI). Key successes include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code, interactive, web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally discloses 2013, 2014, 2015, and 2016 revenues by company, commodity, and revenue type as well as production data across all commodities. The Annual Reports provide clarity and transparency of the revenues generated by energy development on public lands and waters—a significant source of financial support for local communities, States, Tribes, and the Federal Government. In the spring of 2016, three states (Montana, Wyoming, and Alaska) opted-in to USEITI, allowing for expanded State reporting of extractive revenues. The portal is the new global standard in revenue governance transparency.

The U.S. is scheduled to produce its third Annual Report in December 2017 and undergo validation April 1, 2018. Validation is an independent, external and impartial process that serves to assess performance and promote dialogue and learning at the country level. It also safeguards the integrity of the EITI by holding all EITI implementing countries to the same global Standard. As confirmed in the May 15, 2017, Department of the Interior, Office of the Inspector General Field Inspection Final Report Number 2016 EAU 041, the U.S. has only partially met the revenue collection requirement (Requirement 4) because it has been unable to obtain full disclosure of extractive resource payments from companies, thus preventing the required reconciliation to Government receipts. In addition, the U.S. has encountered challenges as part of its participation

in EITI that could prevent it from reaching the goal of compliant status. Should the U.S. not achieve compliant status and the Board finds inadequate progress implementing the Standard, the standing of the U.S. in EITI would be diminished. Nonetheless, the Department of the Interior is committed to the principles of open government and accountability. As such, the Office of Natural Resources Revenue will begin mainstreaming DOI revenue reporting requirements of the Standard and institutionalizing EITI processes.

As previous Administrations have done in the past, the Department of the Interior is currently conducting a standard review of the charters and charges of Federal Advisory Committee Act (FACA) Advisory Commissions in an effort to maximize feedback from these boards and to ensure their compliance with both FACA and the President's recent executive orders. The review process is meant to identify committees that merit improvement in order to fully support their missions, serve the local communities, and ensure the Department is getting local feedback to the maximum extent possible. This review process necessitates the temporary postponement of advisory committee meetings, including those of the USEITI. As the review proceeds, many committees will resume their regularly scheduled meetings, and the Department fully expects the majority of committees to resume by September.

If you have any comments or questions, please don't hesitate to contact Ms. Judy Wilson at Judith.wilson@onrr.gov or (202) 208-4410.

Sincerely,

Gregory J. Gould
Director, Office Natural Resources Revenue

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U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

Dear Ranking Member Grijalva:

Thank you for your letter and your interest in the Department of the Interior's efforts to implement the Extractive Industries Transparency Initiative (EITI) Standard. Implementing the EITI Standard domestically moved the global conversation about extractive transparency forward. It advanced the mainstreaming of EITI principles and encouraged additional OECD countries to implement the EITI Standard. Implementing the Standard domestically also demonstrated that a strong commitment to transparency and accountability principles applies equally to developed and developing countries.

In 2012, the U.S. began implementing EITI in the U.S. (USEITI). Key successes include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code, interactive, web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally discloses 2013, 2014, 2015, and 2016 revenues by company, commodity, and revenue type as well as production data across all commodities. The Annual Reports provide clarity and transparency of the revenues generated by energy development on public lands and waters—a significant source of financial support for local communities, States, Tribes, and the Federal Government. In the spring of 2016, three states (Montana, Wyoming, and Alaska) opted-in to USEITI, allowing for expanded State reporting of extractive revenues. The portal is the new global standard in revenue governance transparency.

The U.S. is scheduled to produce its third Annual Report in December 2017 and undergo validation April 1, 2018. Validation is an independent, external and impartial process that serves to assess performance and promote dialogue and learning at the country level. It also safeguards the integrity of the EITI by holding all EITI implementing countries to the same global Standard. As confirmed in the May 15, 2017, Department of the Interior, Office of the Inspector General Field Inspection Final Report Number 2016 EAU 041, the U.S. has only partially met the revenue collection requirement (Requirement 4) because it has been unable to obtain full disclosure of extractive resource payments from companies, thus preventing the required reconciliation to Government receipts. In addition, the U.S. has encountered challenges as part of its participation in EITI that could prevent it from reaching the goal of compliant status. Should the U.S. not

achieve compliant status and the Board finds inadequate progress implementing the Standard, the standing of the U.S. in EITI would be diminished. Nonetheless, the Department of the Interior is committed to the principles of open government and accountability. As such, the Office of Natural Resources Revenue will begin mainstreaming DOI revenue reporting requirements of the Standard and institutionalizing EITI processes.

As previous Administrations have done in the past, the Department of the Interior is currently conducting a standard review of the charters and charges of Federal Advisory Committee Act (FACA) Advisory Commissions in an effort to maximize feedback from these boards and to ensure their compliance with both FACA and the President's recent executive orders. The review process is meant to identify committees that merit improvement in order to fully support their missions, serve the local communities, and ensure the Department is getting local feedback to the maximum extent possible. This review process necessitates the temporary postponement of advisory committee meetings, including those of the USEITI. As the review proceeds, many committees will resume their regularly scheduled meetings, and the Department fully expects the majority of committees to resume by September.

If you have any comments or questions, please don't hesitate to contact Ms. Judy Wilson at Judith.wilson@onrr.gov or (202) 208-4410.

Sincerely,

Gregory J. Gould
Director, Office Natural Resources Revenue

The Honorable Raúl M. Grijalva
Ranking Member
U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

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The U.S. government committed to implementing EITI in the U.S. (USEITI) in 2011 and in the spring of 2012 designated the Department of the Interior the lead Agency for implementing USEITI. Implementing USEITI provides additional oversight of the collection and disbursement of the Nation's mineral resources revenues. USEITI successfully completed the initial requirements to join EITI as a candidate country when accepted by the International EITI Board in March 2014. Key successes include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code, interactive, web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally discloses 2013, 2014, 2015, and 2016 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency.

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Scott Cameron
Principal Deputy Assistant Secretary for
Policy, Management and Budget

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If you have any comments or questions, please don't hesitate to contact Ms. Judy Wilson at Judith.wilson@onrr.gov or (202) 208-4410.

Sincerely,

Scott Cameron
Principal Deputy Assistant Secretary for
Policy, Management and Budget

Hi Judith,

At our call on 30 March we discussed your pre-validation assessment and the development of an options paper addressing next steps for US EITI implementation. Here are some questions and observations on some the key aspects. I'd be happy to elaborate further if useful.

1. Validation scenarios

We broadly agree with your self-assessment. We have some questions about some technical aspects (e.g., some issues regarding scoping (4.1) and adherence to the standard ToRs for Independent Administrators (4.9). As you have identified, industry participation, the coverage of reconciliation and the coverage of income tax is problematic. In some other respects - such as coverage of the Abandoned Mine Land Reclamation Program and the work on the open data portal - US EITI implementation is exemplary.

Sam I would like to get a better understanding of the issues / questions regarding scoping (4.1) and adherence to the Standard ToRs for Independent Administrators (4.9)?

As you know, the EITI has changed its approach to Validation. We have moved away from a binary "pass/fail", "candidate/compliant" system. Validation now provides both an "overall assessment" and scorecard addressing adherence to various aspects of the EITI Standard. The most likely scenario is an overall assessment of "meaningful progress". As you can see here, this is a relatively common outcome. No country has so far achieved an overall assessment of "satisfactory progress". Most countries have a rather long list of corrective actions.

As you know, Validation in the United States is currently scheduled to commence on 1 April 2018. This implies completion of Validation circa September 2018. We of course don't know what will happen with 1504 until then. Note that the MSG is entitled to seek an extension if it considers that there have been "exceptional circumstances". If a new 1504 Rule has been released, the MSG might consider requesting an extension. Alternatively, if Validation goes ahead as scheduled, progress based on implementation of 1504 could be considered at the second Validation as late as March 2020.

2. The Royalty Policy Committee acting as the MSG.

There is nothing in the EITI Standard that prevents an implementing country from changing the form and composition of the MSG. It is, however, essential that "each stakeholder group must have the right to appoint its own representatives" (Requirement 1.4.a.ii). The documents that you have provided stipulate that the appointments will be approved by the Secretary. Could you provide some additional detail on how the members will be selected? Is it feasible for the industry and CSO constituencies to appoint their own representatives, even if they are ultimately approved by the Secretary?

The EITI Standard also requires that the MSG agrees clear public terms of reference for its work, approves its own work plans, and its agrees its internal governance rules and procedures. It would be good to consider how this would be done, at least in terms of the Committee's work relating to EITI implementation. I guess one option is that the MSG is formed as a subcommittees of the Royalty Policy Committee.

3. Industry participation and coverage of tax payments

It would be good to get some clarity on the plans for covering income tax in the next report. Specifically: will any companies be invited to report? If not, is there any work planned to collate information from other publically available sources? Will the IRS continue to provide an estimate?

Even if the SEC presented a new rule in the coming months, we assume that this will not come into force for until 2019 or later. It would therefore be good to explore what additional work could be done with existing data. As we have discussed previously, the publically listed firms typically disclose quite a lot of information in their 10-K Reports to the SEC. These include quite detailed reporting on revenues, expenses, production, profitability, depreciation, etc. Most have a line item on segment income taxes. See the latest 10-K from Chevron showing a tax benefit for upstream US of \$1.172 billion, and how this is offset by income tax in other segments:

We know that these figures cannot be reconciled with government data. For a start, Chevron's statement is done on an accrual basis (taking into account various adjustments and provisions) not on a cash flow basis (i.e., actual payments made to the government). I assume Chevron makes its income tax payments on a group basis, and that the IRS doesn't account for the business segments separately. This makes reconciliation impossible, even if 1504 was in place.

Setting reconciliation aside, this is a reliable (audited) statement from Chevron on their US tax liabilities. And, from a user perspective, it is useful to see these numbers presented in their wider financial context. Specifically, by consulting the 10-K Report, you can see how and why the figure is \$1.172 billion. Can we not do more to collate these existing disclosures? Even a simple list of in-scope companies with links to the public filings may help offset the criticism that "industry is not participating".

[I have asked the Secretariat staff to identify the in-scope companies with 10-K Reports and provide a list of direct links to those reports for incorporation in the data portal.](#)

4. Project level reporting

Another issue we should consider is the EITI's requirement on project-level reporting, originally agreed in 2013. It would be good to discuss how the DOI plans to address this. This may help keep civil society engaged.

At the Board meeting in Bogota the EITI Board reaffirmed that project-level reporting is required. EITI countries will be required to:

Publish EITI data disaggregated by individual project, company, government entity and revenue stream. The national multi-stakeholder group should devise and apply a definition of the term project that is consistent with relevant national laws and systems as well as international norms. For example, the EU defines a project as operational activities that are governed by a single contract, license, lease, concession, or similar legal agreement, which form the basis for payment liabilities with a government. Payments that are levied at a company level can be continued to be reported by company.

Project-level reporting will be required for all reports covering fiscal years ending on or after 31 December 2018. Given the EITI's "two-year rule" (requirement 4.8), this would effectively require project-level reporting by all countries by 31 December 2020 at the latest.

The EITI Board will develop further guidance on the implementation of the requirement and issue a schedule for how and when this requirement will be validated.

Following this decision, the EITI International Secretariat is conducting some research on existing practices. Our preliminary assessment of the level of disaggregation in your latest EITI Report is as follows:

Table 2 of the 2015 EITI Report includes a list of the relevant companies included in the scope of reconciliation, but it was not possible to retrieve corresponding licenses or permits for each of the companies, when accessing the online registries. Therefore the level of disaggregation is per government entity, revenue stream and per company, but we were unable to determine whether any of these company-disclosures were on a project level.

[The Table reflects Parent Companies and the data is not disaggregated on a project level.](#)

It would be appreciated if you could help us revise this summary, addressing plans for project-level reporting in the years to come.

Regards,

Sam

Section 1504 of the Dodd-Frank Act added Section 13(q) to the Securities Exchange Act of 1934, which directs the Commission to issue rules requiring resource extraction issuers to include in an annual report information relating to any payment made by the issuer, a subsidiary of the issuer, or an entity under the control of the issuer, to a foreign government or the Federal Government for the purpose of the commercial development of oil, natural gas, or minerals.

Section 13(q) requires a resource extraction issuer to provide information about the type and total amount of such payments made for each project related to the commercial development of oil, natural gas, or minerals, and the type and total amount of payments made to each government. In addition, Section 13(q) requires a resource extraction issuer to provide information about those payments in an interactive data format.

It is important to note that Section 13(q) of the Exchange Act (Section 1504 of the Dodd-Frank Wall Street Reform Act), which requires resource extraction companies to report annually on their payments to foreign governments, remains United States law.

The Administration supported the passage of House Joint Resolution 41 in order to increase American competitiveness in the energy sector.

We cannot predict the future of any rulemaking around Section 1504. The process for finalizing a rule to implement Section 1504 has been ongoing for seven years. I refer you to the SEC for further information.



United States Department of the Interior

OFFICE OF NATURAL RESOURCES REVENUE

P.O. Box 25165
Denver, Colorado 80225-0165

NOV 02 2017

Mr. Fredrik Reinfeldt
Chair, Extractive Industries Transparency Initiative Board
Ruseløkkveien 26
0251 Oslo
Norway

Dear Chair Reinfeldt:

The United States has made significant progress meeting individual requirements of the Extractive Industries Transparency Initiative (EITI) since the fall of 2011 when the U.S. announced that it would begin the multi-year process of becoming an EITI compliant country. The Department of the Interior established a multi-stakeholder group in December 2012 and achieved Candidate Country status in March 2014. Perhaps our most significant accomplishment is the creation of an open source, open code interactive web-based data portal (<https://useiti.doi.gov>) on which the agency has unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type, as well as production data across all commodities. This portal is the new global standard in revenue governance transparency. We are happy to report that use by state, local and tribal governments is increasing as well. While the U.S. government remains committed to fighting corruption in the extractive industries sector, and the ideals of transparency enshrined in the EITI Principles and the EITI Standard, it is clear that domestic implementation of EITI does not fully account for the U.S. legal framework. Effective immediately, therefore, the United States must withdraw as an EITI Implementing Country.

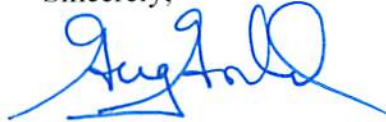
The Office of Natural Resources Revenue (ONRR), which maintains the primary role in the U.S. Government for the collection and disbursement of revenue related to energy and non-energy mineral resources, remains fully committed to institutionalizing the EITI principles of transparency and accountability consistent with U.S. law. ONRR intends to mainstream government reporting of energy production and the associated revenue collection and disbursement. ONRR is also committed to continue its efforts to promote public awareness and engage stakeholders in a public conversation of the potential impacts of proposed policies and regulations related to revenue collection from such development. We will continue to unilaterally disclose revenue payments received for extractive operations on federal land through our open data portal, and we will continue to improve our reporting through the inclusion of additional states and tribes.

Please know that the U.S. Department of State will continue to lead the United States' commitment to the EITI as a Supporting Country, a role that the United States has played since the beginning of the initiative. The U.S. political and financial support of the EITI over many

years has been second to none. In conjunction with the U.S. Agency for International Development, the State Department will continue to promote transparency, fight corruption and ensure good governance, as well as to support country-level EITI implementation. We continue to value the EITI as a critical tool to promote transparency, increase competitiveness, and combat corruption around the world.

Despite the fact that the U. S. laws prevent us from meeting specific provisions of the EITI Standard, we look forward to working together to promote transparency, fight corruption and ensure good governance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Gregory J. Gould", with a stylized flourish extending from the end.

Gregory J. Gould
Director

POGO Calls for Removal of American Petroleum Institute (API) from Transparency Group (USEITI)

FOR IMMEDIATE RELEASE

CONTACT: Ari Goldberg (agoldberg@pogo.org; [240.678.9102](tel:240.678.9102))

February 1, 2017

WASHINGTON—On behalf of civil society groups, [The Project On Government Oversight](#) (POGO) today formally requested the removal of the American Petroleum Institute (API) from the United States Extractive Industries Transparency Initiative (USEITI), which is part of an international effort to promote open and accountable management of natural resources.

During a meeting of the multi-stakeholder group, in which POGO is a participating member, POGO Executive Director [Danielle Brian](#) said API's current effort to kill a key anti-corruption measure in the Dodd-Frank Wall Street Reform and Consumer Protection Act known as the Cardin-Lugar Provision or Section 1504:

".... is particularly galling, in that in their fact sheets, API uses their participation in USEITI as evidence that they believe in transparency. In those same documents API claims the disclosures required by 1504, which are complementary to EITI standards, are anti-competitive, even though their competitors are held to the same standards through the EU and Canadian rules. In other words, they never intended to support disclosure of taxes by company or project level reporting of other revenue streams."

".... It is simply unacceptable for API to continue to benefit from the goodwill generated from their boasting of their participation in USEITI while at the same time actively working to directly undermine our success. As a result, civil society is formally requesting that the DFO (Designated Federal Officer) remove API from the MSG (multi-stakeholder group) [of USEITI members]."

See also: [POGO Fights House Attempt to Gut Anti-Corruption Law](#)

Transcript of Danielle Brian's full remarks:

Today the House and possibly the Senate are preparing to vote on whether to disapprove the Cardin-Lugar 1504 rule. As all of you who have been working on USEITI know, we have been waiting for months, years, for that rule to be finalized so that we could move forward with our work. 1504 is the cornerstone of USEITI and civil society vociferously objects to its gutting.

During these past years we have been told repeatedly that industry will not voluntarily disclose more than what is required of them by law. To be fair, despite that, several companies have

honored the spirit of EITI and have gone beyond what was already legally required and disclosed their tax payments even before 1504 was implemented. And we thanked those companies by name in the last report. And we have been punting on the basic EITI requirements of tax disclosure and project level reporting because we were told we had to wait for the rule before we could do more.

I now ask our government and industry colleagues to please join me in expressing our opposition to the misguided effort to disapprove the rule. If any of the companies who have already supported the disclosure of taxes and project level reporting are willing to make their voices heard now, before the House and Senate vote, we might be able to prevent the loss of this anti-corruption measure.

We in civil society believe that the lobbying effort by the American Petroleum Institute to kill the 1504 rule is particularly galling, in that in their fact sheets, API uses their participation in USEITI as evidence that they believe in transparency. In those same documents API claims the disclosures required by 1504- which are complementary to EITI standards - are anti-competitive- even though their competitors are held to the same standards through the EU and Canadian rules. In other words, they never intended to support disclosure of taxes by company or project level reporting of other revenue streams.

We know that Aaron has been working hard on USEITI and he is not personally responsible for the positions of his employer, but it is simply unacceptable for API to continue to benefit from the goodwill generated from their boasting of their participation in USEITI while at the same time actively working to directly undermine our success. As a result, civil society is formally requesting that the DFO remove API from the MSG.

United States Senate

WASHINGTON, DC 20510

February 2, 2017

Acting SEC Chairman Michael Piwowar
100 F Street, NE
Washington, DC 20549

Dear Acting Chairman Piwowar:

We are voting for the resolution (H.J. Res. 41) to express congressional disapproval under the Congressional Review Act of the Securities and Exchange Commission's Final Rule on Disclosure of Payments by Resource Extraction Issuers. We are of course strong supporters of policies to combat U.S. companies' participation in corrupt financial practices abroad, and we are committed to efforts to encourage corporate transparency on these matters consistent with the international standards already adopted by European and other governments.

However, we will vote to disapprove the SEC's rule because it would place American and other SEC-registered companies at a significant and unacceptable competitive disadvantage. Under the SEC's rule, as we understand it, U.S. companies would be required to make the disclosures about their payments to host governments even where another country's laws might prohibit by law those disclosures. Effectively that could require U.S. companies to stop doing business in those countries, leaving those markets to the unfettered advantage of their foreign competitors.

We would encourage the SEC to consider this and other anti-competitiveness concerns when it revisits its statutory mandate to propose a new rule to implement the bipartisan Cardin-Lugar anti-corruption provisions (Section 1504) of the Wall Street Reform and Consumer Protection Act of 2010. In addition, we are open to supporting legislative or other solutions that might be appropriate to address any issues that might be posed by the Congressional Review Act's restrictions on the similarities between the SEC's new rule and this now disapproved rule.

We look forward to working with the SEC in support of its efforts to encourage corporate transparency and combat corruption abroad.

Sincerely,



Bob Corker
U.S. Senator



Susan Collins
U.S. Senator



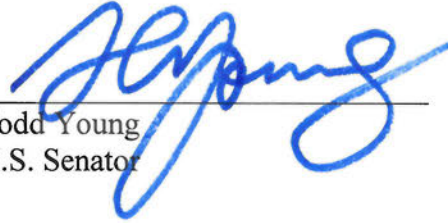
Marco Rubio
U.S. Senator



Johnny Isakson
U.S. Senator



Lindsey Graham
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Todd Young
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United States Senate

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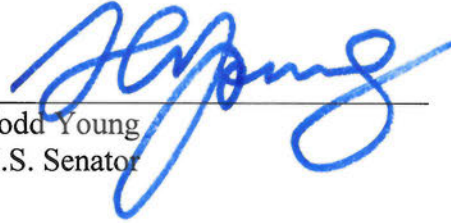
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Lindsey Graham
U.S. Senator



Todd Young
U.S. Senator

Mr. Fredrik Reinfeldt
Chair, EITI Board
Ruseløkkveien 26
0251 Oslo
Norway

Chair Reinfeldt,

The United States has made significant progress meeting individual requirements of the Extractive Industries Transparency Initiative (EITI) since the Department of the Interior, which leads U.S. implementation of the EITI Standard, began in the fall of 2011 the fall of 2011 when the U.S. Department of the Interior an aggressive timeline to established a multi-stakeholder group (MSG); achieved Candidate Country status in March 2014; and ultimately begin the EITI the validation process. process by April 1, 2018. The U.S. has made significant progress meeting individual requirements of the Extractive Industries Transparency Initiative (EITI). Key successes to date Perhaps most significant milestone has been the creation of include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior on which the agency has unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type, as well as production data across all commodities. This e-portal is the new global standard in revenue governance transparency. We are happy to report that use by state, local and tribal governments are to increase transparency is increasing as well.

While the United States government remains committed to fighting corruption in the extractive industries sector, and the ideals of transparency enshrined in your charter, it is clear that Domestic implementation of EITI does not must fully account for the U.S. legal framework. context, legal constraints and feasibility. Effective immediately, therefore, the USEITI must withdraws as an EITI Implementing Country from the EITI.

Despite this, tThe U.S. Department of the Interior, which maintains the primary role in the U.S. Government for the governance of energy and non-energy mineral resources, remains fully committed to institutionalizing the principles of EITI that are allowed under U.S. law. The Department of the Interior intends to institutionalize transparency measures and mainstream government reporting of energy production and the associated revenue collection and reimbursement. The Office of Natural Resources Revenue within the Department of the Interior ensures full payment, disbursement and verification of non tax revenues owed for the development of the nation's energy and natural resources on the Outer Continental Shelf and onshore Federal and Indian lands. Despite current setbacks there is a path forward for the Department of the Interior institutionalizing fundamental principles of EITI that parallel the Department's commitment to reforming revenue management and royalty collections.

The Department is also committed to continue its efforts to promote public awareness and engage stakeholders in a public conversation of the potential impacts of proposed policies and regulations related to revenue collection from such development. We will continue to unilaterally disclose revenue payments received for extractive operations on federal land through our open data portal, and we will continue to improve our reporting through the inclusion of additional states and tribes.

We hope that despite the fact that the United States laws prevent us from meeting one of the eight EITI standards, we will continue to work together to promote transparency, fight corruption and ensure good governance.

Respectfully,

Greg Gould
Director, Office of Natural Resources Revenue and
USEITI Government Sector Co-Chair

Drafted by _____ DOI ONRR: Greg Gould/Judith Wilson

Reviewed by _____

Cleared by _____ NSC ITID: _____
_____ State
_____ USAID

Mr. Fredrik Reinfeldt
Chair, EITI Board
Ruseløkkveien 26
0251 Oslo
Norway

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The Department of the Interior, which leads U.S. implementation of the EITI Standard, began in the fall of 2011 an aggressive timeline to establish a multi-stakeholder group (MSG); achieve Candidate Country status in March 2014; and ultimately begin the validation process by April 1, 2018. The U.S. has made significant progress meeting individual requirements of the Extractive Industries Transparency Initiative (EITI). Key successes to date include publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type as well as production data across all commodities. The portal is the new global standard in revenue governance transparency.

Domestic implementation of EITI must account for the U.S. legal context, legal constraints and feasibility. Effective immediately the USEITI withdraws as an Implementing Country from the EITI. The Department of the Interior maintains the primary role in the U.S. Government for the governance of energy and non-energy mineral resources. The Office of Natural Resources Revenue within the Department of the Interior ensures full payment, disbursement and verification of non-tax revenues owed for the development of the nation's energy and natural resources on the Outer Continental Shelf and onshore Federal and Indian lands. Despite current setbacks there is a path forward for the Department of the Interior institutionalizing fundamental principles of EITI that parallel the Department's commitment to reforming revenue management and royalty collections.

Respectfully,

Greg Gould
Director, Office of Natural Resources Revenue and
USEITI Government Sector Co-Chair

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~~While the United States government remains committed to fighting corruption in the extractive industries sector and the ideals of transparency enshrined in your charter the EITI Articles of Association and the EITI Standard it is clear that Domestic implementation of EITI does not must fully account for the U.S. legal framework context, legal constraints and feasibility. Effective immediately, therefore, the USEITI United States must withdraws as an EITI Implementing Country from the EITI.~~

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We hope that despite the fact that the United States laws prevent us from meeting ~~one of the~~ ~~eight~~ specific provisions of the EITI Standards we will continue to work together to promote transparency, fight corruption and ensure good governance.

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Drafted by _____ DOI ONRR: Greg Gould/Judith Wilson

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We hope that despite the fact that the U. S. laws prevent us from meeting specific provisions of the EITI Standard, we will continue to work together to promote transparency, fight corruption and ensure good governance.

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Cleared by NSC ITID:
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 USAID

Mr. Fredrik Reinfeldt
Chair, EITI Board
Ruseløkkveien 26
0251 Oslo
Norway

Chair Reinfeldt,

The United States has made significant progress meeting individual requirements of the Extractive Industries Transparency Initiative (EITI) since the fall of 2011 when the U.S. announced that it would begin the multi-year process of becoming an EITI compliant country. The Department of the Interior established a multi-stakeholder group in December 2012 and achieved Candidate Country status in March 2014. Perhaps our most significant accomplishment is the creation of an open source, open code interactive web-based data portal (<https://useiti.doi.gov>) on which the agency has unilaterally disclosed 2013, 2014, and 2015 revenues by company, commodity, and revenue type, as well as production data across all commodities. This portal is the new global standard in revenue governance transparency. We are happy to report that use by state, local and tribal governments is increasing as well.

While the U.S. government remains committed to fighting corruption in the extractive industries sector, and the ideals of transparency enshrined in the EITI Principles and the EITI Standard, it is clear that domestic implementation of EITI does not fully account for the U.S. legal framework. Effective immediately, therefore, the United States must withdraw as an EITI Implementing Country.

The Department of the Interior, which maintains the primary role in the U.S. Government for the governance of energy and non-energy mineral resources, remains fully committed to institutionalizing the EITI principles of transparency and accountability consistent with U.S. law. The Department of the Interior intends to mainstream government reporting of energy production and the associated revenue collection and disbursement. The Department is also committed to continue its efforts to promote public awareness and engage stakeholders in a public conversation of the potential impacts of proposed policies and regulations related to revenue collection from such development. We will continue to unilaterally disclose revenue payments received for extractive operations on federal land through our open data portal, and we will continue to improve our reporting through the inclusion of additional states and tribes.

Please know that the U.S. Department of State will continue to lead the United States' commitment to the EITI as a Supporting Country, a role that the United States has played since the beginning of the initiative. The U.S. political and financial support of the EITI over many years has been second to none. In conjunction with the U.S. Agency for International Development, the State Department will continue to promote transparency, fight corruption and ensure good governance, as well as to support country-level EITI implementation. We continue to value the EITI as a critical tool to promote transparency, increase competitiveness, and combat corruption around the world.

Despite the fact that the U. S. laws prevent us from meeting specific provisions of the EITI Standard, we look forward to working together to promote transparency, fight corruption and ensure good governance.

Respectfully,

Greg Gould
Director, Office of Natural Resources Revenue and
USEITI Government Sector Co-Chair

Drafted by DOI ONRR: Greg Gould/Judith Wilson

Reviewed by

Cleared by NSC ITID:
State
USAID

Mr. Fredrik Reinfeldt
Chair, Extractive Industries Transparency Initiative Board
Ruseløkkveien 26
0251 Oslo
Norway

Dear Chair Reinfeldt:

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Despite the fact that the U. S. laws prevent us from meeting specific provisions of the EITI Standard, we look forward to working together to promote transparency, fight corruption and ensure good governance.

Sincerely,

Gregory J. Gould

Director ~~and USEITI Government Sector Co-Chair~~



U.S. Department of the Interior

Natural Resources Revenue Data

2017 Executive Summary



A Note on This Report:

This report outlines progress made by the Department of the Interior and the Office of Natural Resources Revenue (ONRR) in 2017 on continuing to build upon the efforts of the Extractive Industries Transparency Initiative (EITI). In 2017, the U.S. withdrew from EITI as an Implementing Country, but will remain fully committed to institutionalizing the EITI principles of transparency and accountability. The U.S. intends to continue mainstreaming government reporting of energy production and the associated revenue collection and disbursement, and will maintain the Natural Resources Revenue Data portal (<https://revenuedata.doi.gov>).



2017 by the Numbers

Extractive Industries' Revenues in the U.S.



100% of DOI revenues for 2016 disclosed in unilateral disclosure



Payments from 651 companies disclosed for 2016



In 2016, \$5.6B in DOI revenues from extraction on federal lands and waters



9 revenue streams from 21 commodities disclosed

USEITI 2017 Features



1 new state with significant extractive industries opted-in



1 addition on tribal land and governance



12 extractive industry county case studies and 3 state additions were updated with most recent data



1 addition regarding renewable energy in the U.S.



1 addition discussing forestry in the U.S.



1 addition describing the life of an onshore and an offshore lease



1 addition outlining employee data by commodity

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1

OVERVIEW OF 2017 ACTIVITIES





Overview of 2017 Activities

New contextual narrative information developed for 2017 aimed to strengthen the information presented and increase transparency and public awareness beyond the federal government level and to additional industries.

Specifically, the new content added included:

- Special highlights on new non-energy minerals, renewables, and forestry in the United States
- Additional information throughout the data portal on tribal governance of extraction
- A new state opt-in for 2017, Colorado
- Employment data by commodity throughout the data portal
- Overview of the “life of a lease” outlining the necessary actions of onshore and offshore lessees

ONRR’s 2016 Unilateral Disclosure includes production data from federal lands for 42 different products, including:

Gas:	4.5 trillion cubic feet	
Oil:	762 million barrels	
Coal:	292 million tons	
Copper:	25 thousand tons	

In FY2016, ONRR disbursed \$6.2B dollars, including disbursements to the following:

U.S. Treasury: \$2.5 billion

U.S. States: \$1.3 billion

Reclamation: \$1.0 billion

Land & Water Conservation: \$884 million

American Indian Tribes: \$560 million

The 2017 Executive Summary

This Executive Summary presents an overview of the 2017 DOI Natural Resources Revenue Data (NRRD) Report. Online you can do the following:

1. Review unilateral revenue disclosures from 2013 to 2016
2. Explore maps and charts of extractive industries, as well as revenue and economic data, for the United States and 18 prioritized states, with additional information for the four states that opted in 2016 and 2017
3. Download relevant data sets
4. Read 12 county case studies on the history, geology, production, employment, revenue, and fiscal costs of specific industries, with updated information for 2015 and 2016
5. Conduct a curated search for additional data and information
6. Discuss and participate



How it works

How do natural resources result in federal revenues?

Companies pay for the right to explore on federal lands. If they find and extract resources, they may pay royalties, fees, taxes, and other revenues, depending on the resource.



Case studies

How does natural resource extraction affect local communities?

Learn about 12 communities that led the U.S. in production of iron, copper, gold, coal, oil, and natural gas over the last decade.



Explore data

Where does the money go?

Revenue from natural resources goes to federal, state, and county governments, as well as to a range of funds that work at the local and national levels.



2

STATE PARTICIPATION IN 2017

State Participation in 2017



WHAT'S HERE AND WHERE TO GO FOR MORE INFORMATION

This section introduces Colorado, the new state addition for 2017, and provides a high level overview of the types of information the state provided. Online you can explore the state sections, including last year's opt-ins at <https://revenue.data.doi.gov/explore/>. You can view more information on state and tribal governance at <https://revenue.data.doi.gov/how-it-works/>. Additionally, you can read the 12 county case studies at <https://revenue.data.doi.gov/case-studies/>.



WHAT'S CHANGED FROM 2016 TO 2017

In 2016, three states opted in, providing data on revenues, distribution of those revenues, and legal and fiscal governance of the extractive industries, as well as the economic impact of extraction in their states. In 2017, one state opted-in: Colorado. DOI also furthered local accountability and transparency in this year's report by updating 12 county case studies that depict the impact of specific extractive industries on local communities.

2017 State Opt-In: Colorado

In 2017, we continued to work to increase state and tribal participation. One state chose to voluntarily opt-in this year: Colorado. In addition to the new information included for the state of Colorado, the data portal now includes updated information for last year's three opt-ins: Alaska, Montana, and Wyoming.



COLORADO

Colorado collected \$282M in revenue from extraction. This represented 0.89% of Colorado's state revenue. The School Trust and the School Trust Permanent Fund received the largest amounts of this money (\$56M and \$52M respectively).

State Opt-In Information

Colorado worked with ONRR to provide publicly available data and contextual information covering five areas:



Laws & the Land

Information on land ownership in the state, key state agencies involved in extraction, and how the extractive process works in the state.



Production

Information on which commodities are produced in the state, how much is produced, and how that production compares to other U.S. states.



Revenues

Information on the state's revenue streams, including the types of revenue streams, the amount collected, the counties where revenue comes from, and the tax expenditures the state institutes.



Distribution

Information on how and by what means state revenue gets distributed, where that money goes, and how much the state chooses to save or spend.



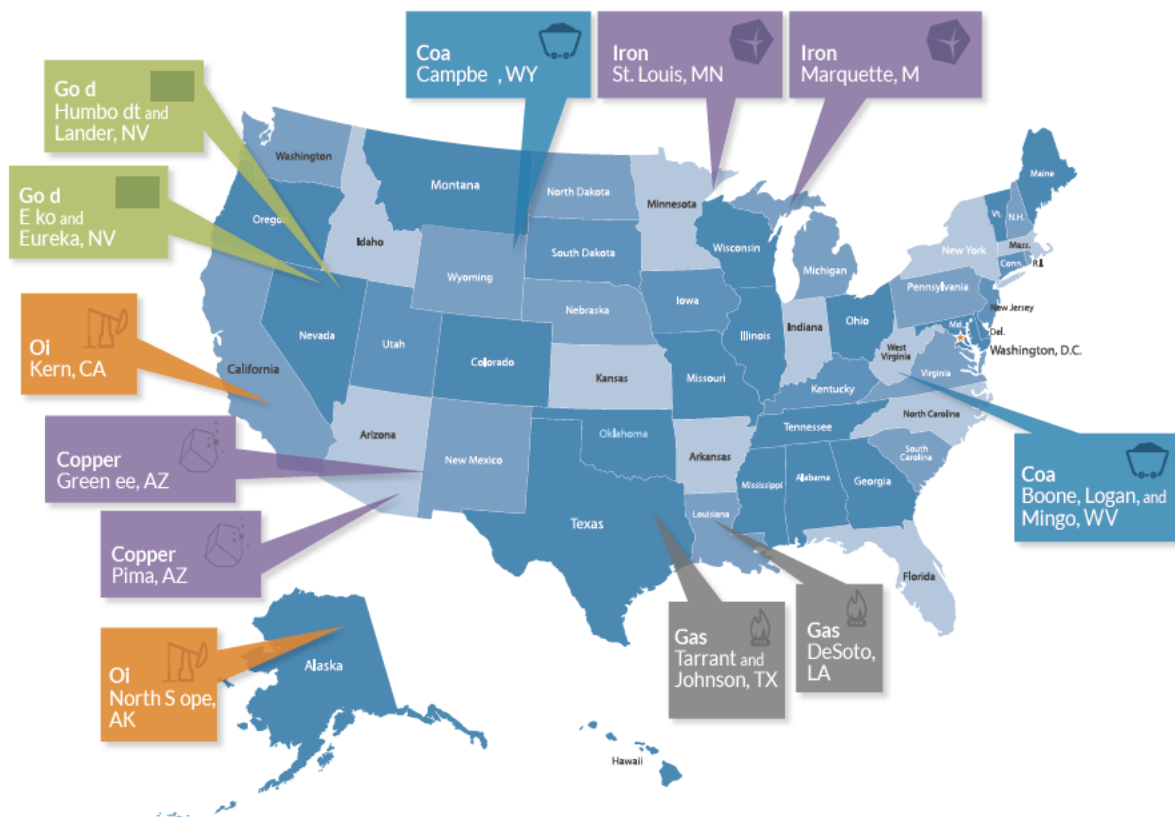
Economic Impact

Information on the extractive industries contributions to state GDP, jobs, wages, the state's revenue sustainability, and the costs associated with extraction.

You can see those state sections, as well as more robust state-specific pages for every state with extractive industries activity, on the online report at <https://revenue.data.doi.gov/explore/>. There you can view the data in-depth and explore interactive maps of land ownership and production for different commodities as well as interactive graphs of production, revenue, disbursements, and economic impact.

County Case Study Updates

In 2017, we updated the information on the 12 county case studies initially developed in 2015. These case studies provide a snapshot into communities that, over the last decade, have led U.S. counties in producing oil, gas, coal, gold, iron, or copper. The county case studies are designed to help readers understand the economic and fiscal effects of oil, gas, coal, and mineral extraction on local communities, including revenue sustainability. You can read the full case studies in the online report, available at <https://revenuedata.doi.gov/case-studies/>.





3

NEW SECTIONS IN THE 2017 REPORT

New Sections in the 2017 Report



WHAT'S HERE AND WHERE TO GO FOR MORE INFORMATION

In an effort to improve public understanding and inform discussions around the extractive industries in the United States, we developed six new contextual sections for the 2017 report. In addition to the state and tribal opt-in sections, they cover new content on extraction on tribal lands, overviews of the forestry and renewable energy sectors, a highlight on the life of a lease, expanded content on non-energy minerals, and new data on employment by commodity. This portion of the Executive Summary contains an overview of these additions. The online report contains the majority of the information, including more graphs and maps.



WHAT'S CHANGED FROM THE 2016 TO 2017 REPORT

Previous reports included general information on extraction on tribal lands, reported on renewable energy production, discussed three non-energy minerals, and outlined the basics of federal leasing. Those topics have been expanded this year. This is the first employment by commodity and forestry content.

Tribal Overview

The 2017 Report includes new information on the extractive industries on tribal land in the United States. The new information includes:

Subject	Information
Ownership of Tribal Land & Resources	Enhanced explanations of tribal and individual Indian land and natural resource ownership in the United States
Governing Laws & Agreements	New content explaining major laws covering federal trust obligations and the basis and explanation of responsibility as well as governing the extraction of natural resources on trust land
Production on Indian Land	New information on the five stages of extraction on tribal lands (Plan, Lease, Explore, Develop, Decommission & Reclaim), including fluid and solid minerals as well as renewable energy projects
Revenues from Indian Land	New overview of how revenues from Indian lands are collected and disbursed, including relevant context, links to agencies, and laws
Audits and Assurances for Revenues from Indian Land	New resources on audit and assurance practices of the federal government relevant to Indian revenues and disbursements
Tribal Economic Impact	New content discussing the economic contributions and costs of extraction on tribal land

Special Highlights on Renewables, Forestry, and Non-Energy Minerals

The 2017 Report includes extensive additional information on two new industries (forestry and renewables) as well as an expansion of current non-energy mineral content to include four additional minerals: lead, silver, zinc, and molybdenum.



Forestry

A special highlight on forestry in the United

States, including ownership information and governance of forests, production, revenue collection and distribution, and economic impact.



Renewables

A special highlight on the renewables

industry in the U.S. including governance, production, revenue, and economic impact.



Non-Energy Minerals

A special highlight on four additional

metals: lead, silver, zinc, and molybdenum. Information includes production, industry overview, and economic impact.

Life of a Lease

As a part of increasing public awareness and trust of the processes governing extraction on public lands, the 2017 report includes new information outlining the life of a federal lease for extracting resources onshore or offshore in the United States. This complements and expands upon existing information on the [How it Works](#) page of the data portal (<https://revenuedata.doi.gov/how-it-works/>). It outlines:

- 1 Before a Lease:** Lessee and government responsibilities prior to a lease sale commencing
- 2 Lease Sale:** Lessee and government responsibilities and actions during a lease sale
- 3 Under a Lease:** Lessee and government responsibilities during the life of the lease
- 4 End of a Lease:** Lessee and government responsibilities at the expiration of a lease

Employment-by-Commodity Data and Other Data Portal Enhancements

In 2017, we added new employment-by-commodity data for wage and salary jobs to the data portal. This information enables users, from experts to the general public, to understand the employment impact of specific industries at the national and state levels. It includes information on six commodities: oil and gas, non-energy minerals, coal, hydroelectric energy, wind energy, and solar energy. Wage and salary jobs by commodity at the national level can be viewed online here: <https://revenuedata.doi.gov/explore/#economic-impact>. Additionally, in 2017, we improved the search capability on the data portal.



4

MAINSTREAMING

Mainstreaming



WHAT'S HERE AND WHERE TO GO FOR MORE INFORMATION

In 2017, in consultation with stakeholders from government, industry, and civil society, Deloitte prepared a Mainstreaming Feasibility Study. This continued efforts by the Department of the Interior to act on its formal commitment to mainstreaming. This executive summary outlines the information presented in that feasibility study.

Mainstreaming Overview

The objective of mainstreaming is to make transparency integral to our systems at the Department of the Interior. Mainstreaming is the formal process countries pursue to demonstrate integrated transparency. The process consists of seven phases: formal commitment, feasibility study, work plan, application, approval, implementation, and review.

Deloitte prepared this mainstreaming feasibility study at the request of ONRR and consulted closely with members of Industry, government, and civil society. The information in the report in this section of the Executive Summary reflects those consultations as well as an independent assessment of U.S. processes and controls.

Unilateral Disclosure of Revenue (UDR)

Each year, ONRR unilaterally discloses calendar year (CY) energy and mineral revenue paid to DOI. Only the revenue deemed to be in-scope is unilaterally disclosed. These disclosures are disaggregated at the company level and reported by natural resource and revenue type. The UDR showcases the United States' commitment to the unilateral disclosure of federal natural resources revenue by company, natural resource, and revenue stream. The UDR uses data reported by federal lease holders on Forms ONRR-2014 and ONRR-4430¹, as well as ONRR direct billing. The UDR is available on DOI's data portal.

Topic	Disclosure Detail
Calendar Years Disclosed	2013–2016
Unique Identified Companies	1,300+ companies paying over \$100K year ²
Total \$ Amount Disclosed ³	\$38,699,490,038
Natural Resource Categories	17
Government Agencies Included	Three (ONRR, the U.S. Bureau of Land Management (BLM), and the U.S. Office of Surface Mining Reclamation and Enforcement (OSMRE))
Revenue Streams	Nine (ONRR royalties, inspection fees, civil penalties, and other revenue; ONRR/BLM rents and bonuses; BLM permit fees; and OSMRE abandoned mine land (AML) fees, including audit and late charges, as well as civil penalties including late charges)

¹ OSMRE and BLM revenue streams are not collected through Forms ONRR-2014 and ONRR-4430. As a result, not all UDR AML fee revenue for OSMRE is from federal leaseholders.

² Thousands more individuals and companies paid as well, but in amounts smaller than \$100,000 per year.

³ This disclosure represents all revenue paid to DOI in CYs 2013–2016.

The total amount disclosed by year can be seen below:

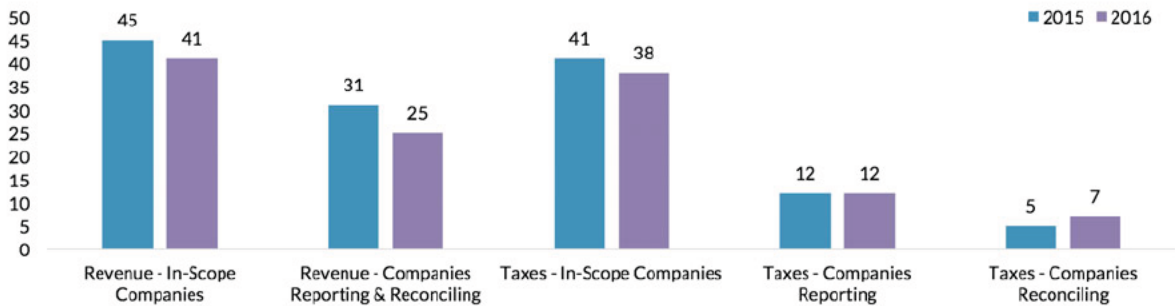
Year	Total \$ Amount Disclosed
2013	\$12,677,473,905
2014	\$12,646,673,553
2015	\$7,803,271,935
2016	\$5,572,070,645

ONRR will continue to unilaterally disclose revenue annually. The data set has been cleaned and organized for ease of use by the general public. It delineates aggregate payments by calendar year, corporate name, revenue stream, natural resource, and revenue.

U.S. Track Record of Reconciliation

The United States conducted its first reconciliation in 2015 as part of the United States Extractive Industries Transparency Initiative (USEITI). The USEITI Multi-Stakeholder Group (MSG) had set the scope of reconciliation to include the top paying companies that, together, accounted for 80% of revenue paid to ONRR. The first period of reconciliation was CY 2013. Across 31 companies (out of 45 invited to reconcile) and 10 revenue streams, the overall variance for all DOI revenue came to \$93,976,582, or 1.1% of all revenue reported by the 31 reconciling companies. For five companies reconciling taxes, there was one variance that totaled \$6,297,360, or 3.3% of reconciled taxes. Seventeen discrepancies exceeded the allowable margin of variance determined by the USEITI MSG. The USEITI Independent Administrator (IA), in collaboration with in-scope companies and government entities, resolved or explained all discrepancies, which included differences regarding when payments were recorded and how they were classified.

Reporting and Reconciliation Results



Result	2015	2016
DOI Revenues Unilaterally Disclosed	100% of 2013 revenues	100% of 2014 and 2015 revenues (only 2015 reconciled)
Companies Participating	31 of 45 companies	25 of 41 companies
DOI Revenues Reported & Reconciled	\$8.5B (81% of in-scope DOI revenues, 67% of all DOI revenues)	\$4.83B (79% of in-scope DOI revenues, 62% of all DOI revenues)
Companies Reporting Taxes	12 of 41 reported \$190M	12 of 38 reported -\$308M
Companies Reconciling Taxes	5 of 41 reconciled \$90M	7 of 38 reconciled -\$130M
Variances	17	21
Variances Resolved or Explained	100%	100%

The Department of the Interior will use the UDR to document the UDR process as it continues to be comprehensive, timely, and accurate. The DOI plans to make the UDR publicly available via existing sources, except where current laws or regulations prohibit data disclosure.

Increasing & Embedding Disclosures

The U.S. government publicly discloses all data embedded in DOI's data portal. This data is updated annually. Key information on the data portal includes:

- **Federal production data** for 55 products extracted from 2006 to 2016. This data can be filtered by product type, region (including state, county, and offshore region), and both calendar and fiscal years.
- **Federal revenue by region** for 2006 to 2016. This data can be filtered by natural resource category and/or region.
- **Company data** for 2013 to 2016, provided by ONRR in its unilateral disclosure. This data can be filtered by natural resource category and/or revenue type.
- **Economic impact data on the extractive industries** for 2006 to 2015, including gross domestic product, exports, and jobs. This data can be filtered by region, with results shown as dollar values or percentage values. The data can be further filtered by natural resource category for exports and by job type for jobs.
- Beyond disclosing DOI data, the portal **aggregates and makes accessible relevant data sets from other government organizations**, including the U.S. Energy Information Administration, the U.S. Bureau of Economic Analysis, and the U.S. Bureau of Labor Statistics, as well as select state and local government data.

In addition to DOI's data portal, ONRR's statistical information site (<http://statistics.onrr.gov/>) provides data sets on disbursements (at the fund or state level and by fiscal year) and reported revenue data (i.e., sales volumes, sales values, and revenue by natural resource category), which is shared at the state, onshore, offshore, and Indian levels in the United States.

The disclosures of companies in the extractive industries in the United States, on the other hand, are generally dictated by their ownership status (and corresponding controls and audits) and internal procedures. In 2016, 34 of the 41 in-scope companies were public (i.e., stock traded on the open market). Public companies must annually disclose their financial statements and the result of their audits. Of the 34 companies, 29 follow accounting principles generally accepted in the United States. The remaining five companies follow International Financial Reporting Standards (IFRS). For each company, independent auditors review and attest to the company's internal controls, in addition to auditing the company's financial statements.

Private companies have fewer requirements to make their information and financial statements public. In 2016, seven in-scope companies were private. These companies, while not subject to the same disclosure requirements as public companies, still operate within the system of controls and audits in which public companies operate. Importantly, private companies can be subject to audits by the IRS.

Evaluating Data Quality

This section outlines the characteristics of U.S. data on whether it is up to date, comprehensive, and reliable.

Up-to-Date Data

For government and industry entities that currently report, U.S. data is disclosed on an annual basis and within the second to last complete accounting period. DOI UDR data is reported for the previous accounting period (e.g., the 2016 report includes 2015 data).

Comprehensive Data

The U.S. government's UDR covers all in-scope, non-tax payments received by the U.S. government. Unilateral disclosure in the United States covers royalties, rents, bonuses, and other revenue, both by revenue stream and by company.

Federal Income Tax disclosure is made by the U.S. Treasury on an aggregate basis by industry. Some companies voluntarily disclose Federal Income Tax data to fulfill regulatory requirements in other countries, or as part of their own transparency reporting.

DOI provides contextual narrative information throughout its data portal, which provides a detailed overview of the extractive industries on federal government lands in the United States. The portal contains dozens of pages, tables, and graphics that allow users to dynamically explore data related to the extractive industries in the United States. It also explains how the extractive industries function in the United States. Specifically, the portal includes:

- More than 15 in-depth contextual pages about the entities that own natural resources, the laws governing natural resource extraction, how natural resources result in federal revenue, details on revenue streams, and data accuracy and accountability measures.
- Fifty-five dynamic regional profile pages with contextual data integrated throughout.
- Twelve county case study pages that examine major producers of in-scope natural resources and the socioeconomic impact extractives industries have on these counties.

Additionally, the data portal includes a glossary related to the extractive industries, downloadable data sets for further analysis, and data documentation and usage notes.

Reliable Data

Companies in the extractive industries are subject to laws and regulations related to payments to the U.S. government, including the process for submitting those payments to the federal government. The processes for how these payments and revenue are recorded and verified are detailed in DOI's *Audit and Assurance*

Practices and Controls in the U.S. Factsheet, which is available at https://revenuedata.doi.gov/downloads/USEITI_budget-audit-factsheet_2016-08-17.pdf. *Appendix 2* includes tables that outline the major laws establishing the fiscal regime, fees, and fines related to extractive industries revenue collection in the United States.

Standards for both the federal government and companies in the extractive industries are promulgated by regulatory and voluntary oversight bodies.⁴ These standards define:

- How companies and the U.S. government report revenue and financial information.
- How internal and external audit procedures provide payment and collection assurance.
- How external auditors provide assurance on companies' financial statements, as well as disclose audit results and audited financial statements for public companies.

These standards as well as select laws establishing the fiscal regime of the extractive industries in the United States can be found in the Appendix of this report.

Reconciliation & Mainstreaming

If data is comprehensive and reliable, then the data is “audited in accordance with international standards, the procedure does not require a comprehensive reconciliation of government revenue and company payments.” This section details the audit, reconciliation, and assurance processes in place at ONRR and other U.S. government agencies.

There are generally four levels of mainstreamed controls:

- Upfront reconciliation of transaction data between DOI, U.S. Treasury, and companies
- Internal audit and other assurance processes within DOI
- External audit of DOI
- Other ad hoc oversight from the Office of the Inspector General (OIG), Congress, and other bodies

As part of the pre-reconciliation process integral to ONRR's receipt and processing of company payments and reporting, ONRR conducts 100% upfront reconciliation. Numerous internal audit and other assurance processes within DOI further aim to achieve accuracy and reliability in payment collection, accounting, and reporting. Those controls, as well as DOI's financial data, are further subject to external audits and ad hoc oversight from the OIG, Congress, and other bodies.

⁴ “Tracking and Verifying Company Payments to Government Agencies in the U.S. Extractive Industries,” n.d., USE T , https://revenuedata.doi.gov/downloads/USE T _budget-audit-factsheet_2016-08-17.pdf

Conclusions

This feasibility study was prepared by Deloitte in consultation with other stakeholders from government, industry, and civil society. The following three primary statements reflect those consultations and a review of documents:

- The United States has **routine disclosures at the requisite level of detail for a significant amount of data**. The U.S. government's UDR covers all in-scope, non-tax payments received by the U.S. government and covers royalties, rents, bonuses, and other revenue by revenue stream and company. The disclosure is available to the public through a data portal (<https://revenuedata.doi.gov/downloads/federal-revenue-by-company/>). The USEITI MSG and EITI International Secretariat have made significant efforts toward the usability and public awareness of the data portal.

That said, there are two areas in which there is not currently routine disclosure:

- Corporate Income Tax, which is an in-scope revenue stream, is not currently disclosed at the company level. Federal law, including Section 6103 of the Internal Revenue Code (26 U.S.C.), which provides for the confidentiality of tax returns and return information, prohibits unilateral disclosure by the U.S. government of taxpayer information at the company level. However, the U.S. Treasury does publicly disclose Corporate Income Tax on an aggregate basis by industry, including for the oil and gas and mining industries. Also, the IRS, which is under the U.S. Treasury umbrella, has the right to audit individual taxpayer returns. In addition, some companies voluntarily disclose Corporate Income Tax data to fulfill regulatory requirements in other countries, or as part of their own transparency reporting. Fuller tax disclosure would require either new legislation and/or expanded voluntary company disclosure. Based on consultations conducted in preparation of this report, stakeholders did not see a path to either at this time.
- With respect to beneficial owners, there is an existing framework of Federal banking, securities, mineral extraction and other regulations which require routine disclosure of significant owners and "responsible persons" for U.S. companies in many situations. There are also existing ethics rules which require Federal employees to disclose financial interests in companies and limit conflicts of interest. (See page 30 for more detail). However, because companies can register in any of the 50 states, there is no single authoritative source for beneficial ownership information, and the level of disclosure at the state level varies widely. Based on consultations conducted in preparation of this report, stakeholders did not see a legislative or regulatory path to create such a source at the present time.

Considered together, the system of internal controls, the disclosure of non-tax revenue through the UDR, and the disclosure of industry aggregates for Corporate Income Tax, the United States has routine disclosure of a significant amount of the data.

- **In-scope financial data for the U.S. government is subject to independent audit, applying international standards.**⁵ The U.S. government and companies (both public and private) generally have controls and systems of internal and external audit consistent with international standards.

With respect to the external audit of DOI, OIG engages an external auditor to conduct an annual audit of ONRR's financial functions. The external audit is conducted according to GAGAS, an internationally recognized standard. While the specific tests used in DOI's external audit have not been disclosed, interviews with OIG and other DOI personnel indicate that source documents and records are used to verify the accuracy of financial reports. In addition to the external audit, DOI and ONRR are subject to oversight related to the collection, distribution, and reporting of revenue, including oversight from DOI's Office of Audits, Inspections, and Evaluations and DOI's Office of Investigations.

In addition, all publicly traded in-scope companies undergo external audits in accordance with international standards, either GAAP or IFRS, and disclose their financial statements and the results of their audits to the SEC. Privately held U.S. companies also generally undergo audits in accordance with international standards and may be audited by the IRS, although they are not required to publicly disclose their results.

- **Internal controls exist to support the reliability and accuracy of payment collection, accounting, and reporting of in-scope data.** Internal processes and controls between the U.S. Treasury, DOI, and company payors are in place, including an upfront reconciliation of a large percentage of transactions, which compares the amounts owed to the amounts collected. These processes and controls are designed to monitor the accuracy and timeliness of revenue collection and reporting between the company payor and the U.S. government. This system of controls is also intended to reduce the opportunities for fraud by the company payors or U.S. government officials. The OMB Circular A 123 program, DOI's Integrated Internal Control Program, and ONRR's data accuracy efforts for Form ONRR-2014 and OGOR submissions are examples of the additional controls in place in the United States to support the reliability and accuracy of data. ONRR's Audit and Compliance Management office within DOI serves to verify the accuracy of data reported to ONRR and examines statements, records, and operations of companies to verify compliance with lease instruments and established regulations, laws, and guidelines. Additionally, states and tribes in the United States maintain audit programs.

⁵ <https://revenue.data.doi.gov>



5

UPDATES TO RELEVANT LAWS AND REGULATIONS

Updates to Relevant Laws & Regulations

A full overview of federal laws and regulations governing extractive industries in the U.S. can be found at <https://revenuedata.doi.gov/how-it-works/federal-laws/>.

Relevant New Laws, Rules, and Reports

In 2017 there were a number of new final and proposed rules, Government Accountability Office (GAO) reports, and OIG reports issued. They include a repeal of a rule updating coal, oil, and gas valuation and OIG reports on BIA's management of the Osage Nation's energy resources and on the OSMRE's oversight of the Abandoned Mine Lands Program. You can read summaries of these updates and find links to the full rules and reports online at <https://revenuedata.doi.gov/how-it-works/federal-reforms/>.

Dodd Frank 1504 & the Congressional Review Act

Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (124 Stat. 1376) to improve transparency and accountability across the financial system. Section 1504 of the act requires extractive industries companies registered with the Securities and Exchange Commission (SEC) to separately disclose information about payments to governments around the world in an interactive data format. You can read the act at <https://www.gpo.gov/fdsys/pkg/PLAW-111publ203/pdf/PLAW-111publ203.pdf>.

Section 1504 mandates disclosure of “the type and

total amount of (such) payments made for each project of the resource extraction issuer relating to the commercial development of oil, natural gas, or minerals,” including “taxes, royalties, fees (including license fees), production entitlements, bonuses, and other material benefits, that the Commission, consistent with the guidelines of the EITI (to the extent practicable), determines are part of the commonly recognized revenue stream for the commercial development of oil, natural gas, or minerals.”⁶

The SEC rewrote the rule to implement this law and released the final implementation rules in June 2016. In February 2017, the U.S. Congress passed a joint resolution of disapproval for the rule under the Congressional Review Act of 1996.⁷ This nullified the SEC's rule. While Section 1504 still carries a legal mandate, the resolution of disapproval means that “the rule may not take effect and the agency may issue no substantially similar rule without subsequent statutory authorization.”⁸ Furthermore, under the law, the rule “shall be treated as though [it] had never taken effect.”⁹

The final rule as SEC issued it can be found here: <https://www.sec.gov/rules/final/2016/34-78167.pdf>. The resolution of disapproval can be read here: <https://www.congress.gov/bill/115th-congress/house-joint-resolution/41>.

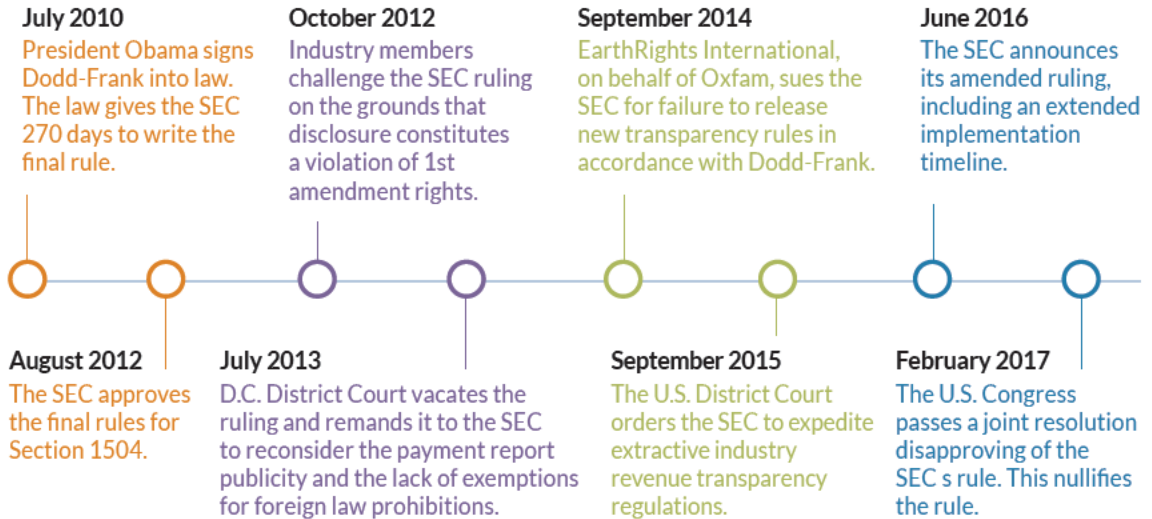
⁶ Dodd-Frank Wall Street Reform and Consumer Protection Act, <https://www.gpo.gov/fdsys/pkg/PLAW-111publ203/content-detail.htm>

⁷ The Congressional Review Act enables Congress to disapprove of a rule within 60 days of receiving it.

⁸ <https://www.senate.gov/CRSpubs/316e2dc1-fc69-43cc-979a-dfc-24d784c08.pdf>

⁹ 5 U.S.C. Section 801(f).

Dodd-Frank 1504 Timeline¹⁰



¹⁰ Securities and Exchange Commission, "SEC Adopts Rules for Resource Extraction Issuers Under Dodd-Frank Act," <https://www.sec.gov/news/pressrelease/2016-132.htm>



6

APPENDIX – RELEVANT U.S. LAWS AND REGULATIONS

Appendix — Relevant U.S. Laws and Regulations

Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
General Mining Act of 1872, as Amended ¹¹ (30 USC § 29 and 43 CFR 3860)	Provides the right to patent, meaning transfer to private ownership, federal land and natural resources for mining. Since October 1, 1994, Congress has imposed a budget moratorium on any new mineral patent applications.	Federal Onshore Lands (Public Domain)	Locatable hardrock minerals (e.g., gold, silver, and copper)
Leases of Allotted Lands for Mining Purposes ¹² (25 USC § 396 and 25 CFR 212)	States that all lands allotted to Indians, except those made to members of the Five Civilized Tribes and Osage, may be leased for mining purposes for any term of years as may be deemed advisable by the Secretary of the Interior.	Indian Lands (Allotted)	Not specified
Mineral Leasing Act of 1920, as Amended ¹³ (30 USC 181 et. seq.)	Creates a system of leasing mineral resources on federal lands for extraction, and grants BLM the authority to administer mineral leasing.	Federal Onshore Lands (Public Domain)	Coal, oil, gas, oil or gas shale, sodium, potassium, phosphate, sulfur, and gilsonite
Indian Mineral Leasing Act of 1938 ¹⁴ (25 USC § 396a et. seq.)	Opens unallotted lands within any Indian reservation for leasing for mining purposes by authority of the tribal council and approval from the Secretary of the Interior.	Indian Lands (Tribal)	Not specified
Mineral Leasing Act for Acquired Lands of 1947 ¹⁵ (30 USC § 351 et seq. and 43 CFR 3420)	Extends the Mineral Leasing Act of 1920 and the authority of the Secretary of the Interior to govern mineral leasing on federal acquired lands.	Federal Onshore Lands (Acquired)	Coal, oil, gas, oil or gas shale, sodium, potassium, phosphate, sulfur, and gilsonite

Select Laws Establishing the Fiscal Regime for Extractive Industries in the United States:

¹¹ http://apps2.eere.energy.gov/wind/windexchange/wind_installed_capacity.asp

¹² <http://www.gpo.gov/fdsys/pkg/USCODE-2011-tit e25/pdf/USCODE-2011-tit e25-chap12-sec396.pdf>

¹³ https://www.onrr.gov/Laws_R_D/PubLaws/PDFDocs/MineralLeasingAct1920.pdf

¹⁴ <http://www.gpo.gov/fdsys/pkg/USCODE-2009-tit e25/html/USCODE-2009-tit e25-chap12.htm>

¹⁵ http://egcounsel.house.gov/Comps/m_aacq.pdf

Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
Materials Act of 1947 ¹⁶ (30 USC § 601 et. seq.)	Also known as the Common Varieties Act, it regulates the sale and permitting of the most common hardrock minerals. It replaces the General Mining Law of 1872.	Federal Onshore Lands	Common hardrock minerals (e.g., sand, gravel, stone, pumice, cinder)
Submerged Lands Act of 1953 ¹⁷ (43 USC § 1301 et. seq.)	Recognizes states' rights to the submerged navigable lands within their boundaries, as well as the marine waters within their boundaries often defined as three geographical miles from the coastline.	State Offshore Lands	All natural resources
Outer Continental Shelf Lands Act of 1953, as Amended ¹⁸ (43 USC § 1331)	Gives the Secretary of the Interior responsibility for administering mineral exploration and development and other energy resources on the Outer Continental Shelf, subject to environmental safeguards. Mandates receipt of fair market value for mineral leasing.	Outer Continental Shelf	Oil, gas, and other minerals
Geothermal Steam Act of 1970 ¹⁹ (30 USC § 1001 et. seq.)	Allows the leasing of federal land under BLM's administration for geothermal resource development, excluding prohibited lands.	Federal Onshore Lands	Geothermal
Mining and Minerals Policy Act of 1970 ²⁰ (30 USC § 21a)	Amends the Mining Act of 1920 to establish the national interest to develop a domestic private enterprise mining industry, while addressing adverse environmental impacts.	Federal Onshore Lands	All natural resources
Federal Coal Leasing Amendments Act of 1975 (FCLAA) ²¹ (90 STAT 1083)	Amends Section 2 of the Mineral Leasing Act of 1920 by requiring all public lands available for coal leasing to be leased competitively, with the government only accepting lease bids equal to or more than fair market value, as well as the consolidation of leasing into logical mining units, the continual operation by lease holders, and other measures.	Federal Onshore Lands	Coal

¹⁶ [http://egcounse.house.gov/Comps/Act%20of%20July%202031,%201937-\(Materials%20Act%20of%201947\).pdf](http://egcounse.house.gov/Comps/Act%20of%20July%202031,%201937-(Materials%20Act%20of%201947).pdf)

¹⁷ <http://www.boem.gov/uploadedFiles/submergedLA.pdf>

¹⁸ <http://www.gpo.gov/fdsys/pkg/USCODE-2010-title43/html/USCODE-2010-title43-chap29-subchap .htm>

¹⁹ <http://www.gpo.gov/fdsys/pkg/STATUTE-84/pdf/STATUTE-84-Pg1566.pdf>

²⁰ <http://www.gpo.gov/fdsys/pkg/USCODE-2011-title30/pdf/USCODE-2011-title30-chap2-sec21a.pdf>

²¹ <http://www.gpo.gov/fdsys/pkg/STATUTE-90/pdf/STATUTE-90-Pg1083.pdf>

Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
Surface Mining Control and Reclamation Act of 1977 (SMCRA) ²² (30 USC § 1201 et. seq.)	Creates the Office of Surface Mining Reclamation, and Enforcement (OSMRE) to establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations. OSMRE is charged with balancing the nation's need for continued domestic coal production with protection of the environment. In this effort, OSMRE requires coal mine owners to post bonds as insurance for reclaiming the land after current mining operations are complete, as well as requires them to pay into the Abandoned Mine Reclamation Fund, which is intended to address mines abandoned prior to 1977.	Federal Onshore Lands	Coal
Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA) ²³ (30 USC § 1701 et. seq.)	Grants the Secretary of the Interior authority for managing and collecting oil and gas royalties from leases on federal and Indian lands.	Federal Onshore and Indian Lands, and Outer Continental Shelf	Oil and gas
Indian Mineral Development Act of 1982 ²⁴ (25 USC §§ 2101–2108)	Provides Indian tribes with flexibility in the development and sale of mineral resources, including opportunities to enter into joint venture agreements with mineral developers.	Indian Lands (Tribal)	Oil and gas, coal, geothermal, and other mineral resources
Federal Onshore Oil and Gas Leasing Reform Act of 1987 (FOOGLRA) ²⁵ (30 USC § 181 et. seq.)	Amends the Mineral Leasing Act of 1920 to give the U.S. Forest Service the authority to proactively offer leases for oil and gas on National Forest System lands, provided environmental and other land-use regulations are met. BLM largely administers leasing on these lands.	Federal Onshore Lands	Oil and gas
Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 (RSFA) ²⁶ (30 USC § 1701 et. seq.)	Improves royalty management from federal onshore and Outer Continental Shelf oil and gas leases.	Federal Onshore Lands and Outer Continental Shelf	Oil and gas

²² <http://www.gpo.gov/fdsys/pkg/STATUTE-91/pdf/STATUTE-91-Pg445.pdf>

²³ http://www.boem.gov/uploadedFiles/BOEM/Oil_and_Gas_Energy_Program/Leasing/Outer_Continental_Shelf/Lands_Act_History/federal%20og%20royalty%20mgmt.pdf

²⁴ <http://www.gpo.gov/fdsys/pkg/STATUTE-96/pdf/STATUTE-96-Pg1938.pdf>

²⁵ <http://www.gpo.gov/fdsys/pkg/USCODE-2011-tit-e30/pdf/USCODE-2011-tit-e30.pdf>

²⁶ <http://www.onrr.gov/awards/PubLaws/PDFDocs/rsfa.pdf>

Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
Energy Policy Act of 2005 (EPA Act) ²⁷ (42 USC § 13201 et. seq.)	Addresses energy production in the United States, including the production, transportation, and transmission of energy, other than oil and gas (e.g., wind energy), in the waters of the Outer Continental Shelf; incentives for oil and gas development; and provisions to access oil and gas resources on federal lands.	Federal Onshore Lands and Outer Continental Shelf	Oil, gas, coal, wind, solar, hydropower, and geothermal
Gulf of Mexico Energy Security Act of 2006 (GOMESA) ²⁸ (120 Stat. 2922)	Opens 8.3 million acres in the Gulf of Mexico for oil and gas leasing; shares leasing revenue with oil-producing gulf states and the Land and Water Conservation Fund; and bans oil and gas leasing within 125 miles off the Florida coastline in the Eastern Planning Area and a portion of the Central Planning Area until 2022.	Outer Continental Shelf	Oil and gas

There are other laws governing natural resources and companies operating in the extractive industries. Some of these laws require companies to pay fees. Violating some of these laws can also result in the incursion of fines.

Select Laws Resulting in Fines or Fees for Extractive Industries Companies in the United States:

Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
Federal Land Policy and Management Act of 1976 (FLPMA) ²⁹ (43 USC § 1701 et. seq.)	Requires BLM to administer federal lands using a land use planning framework that includes no unnecessary or undue degradation; multiple-use, sustained yield, considerations for present and future generations; and public planning. Requires receipt of fair market value for use of federal lands and resources.	Federal Onshore and Indian Lands	All natural resources
Clean Air Act of 1970 (CAA) ³⁰ (42 USC § 7401 et. seq.)	Outlines steps that federal agencies, state and local governments, and industry must take to decrease air pollution. Oil and gas wells are exempt from legal aggregation, whereby the emissions from small sites that are connected in close proximity or under shared ownership are added together and regulated as “stationary sources” if they emit or could emit 100 tons per year of a pollutant.	All Lands	All natural resources, except when oil and gas are exempted

²⁷ <http://www.gpo.gov/fdsys/pkg/B-LLS-109hr6enr/pdf/B-LLS-109hr6enr.pdf>

²⁸ <http://www.boem.gov/Oil-and-Gas-Energy-Program/Energy-Economics/econ/GOMESA-pdf.aspx>

²⁹ <https://www.blm.gov/or/regulations/fines/FLPMA.pdf>

³⁰ <http://www.gpo.gov/fdsys/pkg/USCODE-2008-title42/pdf/USCODE-2008-title42-chap85.pdf>

Law Name and Code	Description	Relevant Lands or Waters	Relevant Natural Resources
Clean Water Act of 1977 (CWA) ³¹ (33 USC § 1251 et. seq.)	Establishes a regulatory framework to protect water quality and monitor discharges of pollutants into waters in the United States. The U.S. Environmental Protection Agency (EPA) does not require National Pollutant Discharge Elimination System (NPDES) permits for uncontaminated storm water discharges from oil and gas exploration, production, processing, or treatment operations, or transmission or drill site preparation. ³²	All Lands	All natural resources, except when oil and gas are exempted
Safe Drinking Water Act of 1974 (SDWA) ³³ (42 USC 300f–300j)	Protects public health by regulating the nation's public drinking water supply and its sources. As of the 2005 Energy Policy Act, hydraulic fracturing fluids are exempt from underground injection control permits, unless diesel fuel is used in the extraction process. ³⁴	All Lands	All natural resources, except when oil and gas are exempted
Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) ³⁵ (42 USC 9601–9675)	Provides a federal superfund to clean up uncontrolled or abandoned hazardous waste sites, as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment, and gives EPA the power to seek out those parties responsible for any release and ensure their cooperation in the cleanup.	All Lands	All natural resources, except when oil and gas are exempted
Endangered Species Act of 1973 (ESA) ³⁶ (16 USC § 1531 et. seq.)	Protects and recovers imperiled species and the ecosystems upon which they depend.	All Lands	All natural resources
Marine Mammal Protection Act of 1972, as Amended ³⁷ (16 USC 1361 et. seq.)	Prohibits, with certain exceptions, the taking of marine mammals in U.S. waters and by U.S. citizens on the high seas, and the importation of marine mammals and marine mammal products into the United States.	All Lands	All natural resources, except when oil and gas are exempted

³¹ <https://www.gpo.gov/fdsys/pkg/USCODE-2011-tit-e42/pdf/USCODE-2011-tit-e42-chap6A-subchapX.pdf>

³² U.S. Environmental Protection Agency, "Regulation of Oil and Gas Construction Activities," March 9, 2009, <http://water.epa.gov/pollution/npdes/stormwater/Regulation-of-Oil-and-Gas-Construction-Activities.cfm>

³³ <https://www.gpo.gov/fdsys/pkg/USCODE-2011-tit-e42/pdf/USCODE-2011-tit-e42-chap6A-subchapX.pdf>

³⁴ U.S. Environmental Protection Agency, "Regulation of Hydraulic Fracturing Under the Safe Drinking Water Act," http://water.epa.gov/type/groundwater/uic/cass2/hydraulicfracturing/waters_hydroreg.cfm

³⁵ <https://www.gpo.gov/fdsys/pkg/USCODE-2010-tit-e42/pdf/USCODE-2010-tit-e42-chap103.pdf>

³⁶ <http://www.nmfs.noaa.gov/pr/pdfs/awes/esa.pdf>

³⁷ <http://www.nmfs.noaa.gov/pr/pdfs/awes/mmpa.pdf>

Extractive industries companies must comply with many other laws. The websites for DOI, EPA, the National Oceanic and Atmospheric Administration (NOAA), and other federal agencies contain more comprehensive lists of related laws that they enforce:

- DOI Bureau of Ocean Energy Management (BOEM): <http://www.boem.gov/Regulations/BOEM-Governing-Statutes.aspx>
- DOI Bureau of Safety and Environmental Enforcement (BSEE): <http://www.bsee.gov/Regulations-and-Guidance/BSEE-Governing-Statutes/>
- DOI BLM: <https://www.blm.gov/about/laws-and-regulations>
- EPA: <http://www2.epa.gov/laws-regulations/laws-and-executive-orders#majorlaws>
- NOAA: http://www.nmfs.noaa.gov/ole/about/what_we_do/laws.html

Laws, Regulations, Professional Standards, and Regulatory Organizations:

Law, Regulation, Professional Standard, or Regulatory Organization	Acronym	Description
Generally Accepted Accounting Principles	GAAP	GAAP is the standardized accounting rule set for federal government entities and publicly traded or private companies domiciled in the United States or other international jurisdictions in which GAAP is required. GAAP enables company stakeholders to compare accounting statements for different companies and industries using a standard methodology. Because of various accounting and financial reporting standards, the federal government tailors GAAP to meet its unique characteristics and circumstances.
Internal Revenue Service	IRS	The IRS is the revenue service of the U.S. government. The IRS is a bureau within the U.S. Treasury and is under the immediate direction of the Commissioner of Internal Revenue. The IRS is responsible for collecting taxes and the administration of the Internal Revenue Code.
Securities and Exchange Commission Act	SEC	The Securities Exchange Act of 1934 established the SEC to govern the securities industry. By regulation of the SEC, public companies must have their financial statements prepared in accordance with GAAP or IFRS, as issued by the International Accounting Standards Board (IASB), and audited each year by an independent registered public accounting firm. During an audit, the independent auditor examines, on a test basis, evidence supporting the amounts and disclosures in the financial statements. The auditor provides a written opinion on whether the company's financial statements are, in all material respects, fairly presented in accordance with GAAP or IFRS, whichever is applicable.

Law, Regulation, Professional Standard, or Regulatory Organization	Acronym	Description
Sarbanes-Oxley Act of 2002	SOX	SOX requires all financial reports for large public companies (i.e., those with market capitalizations of \$75 million and referred to as "accelerated" filers and those subject to SEC reporting requirements) to include certification of internal control over financial reporting (ICFR) by company management and an ICFR opinion by an independent auditor as of the specified balance sheet date. Congress passed SOX in 2002, in part, to further protect investors from fraudulent accounting activities by public companies.
Public Company Accounting Oversight Board	PCAOB	PCAOB exists to confirm that registered public accounting firms are auditing the financial statements and ICFR of public companies in accordance with auditing standards established and adopted by the PCAOB. The PCAOB is a nonprofit corporation established by Congress to oversee the audits of public companies in order to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports.
American Institute of Certified Public Accountants	AICPA	AICPA requires independent auditors to comply with the audit standards issued by the AICPA for the audits of all companies that are not subject to SEC jurisdiction. The AICPA has released mandatory audit and attestation standards for conducting, planning, and reporting on audit and attestation engagements of private companies.
Financial Accounting Standards Board	FASB	The FASB is a private, nonprofit organization whose primary purpose is establishing and improving GAAP within the United States. The SEC designated the FASB as the organization responsible for setting accounting standards for public companies in the United States. The FASB created the Private Company Council (PCC), which works jointly with the FASB to mutually agree on a set of criteria to decide whether and when alternatives within GAAP are warranted for private companies.
International Financial Reporting Standards	IFRS	IFRS are accounting standards developed by the IASB that are intended to establish a consistent global standard for the preparation of public company financial statements for entities domiciled outside the United States. The IASB, based in London, is an independent accounting standard-setting body. It is funded by contributions from major accounting firms, private financial institutions, industrial companies, central and development banks, national funding regimes, and other international and professional organizations throughout the world. Approximately 120 nations and reporting jurisdictions permit or require IFRS for domestic-listed companies. The SEC is currently considering whether it will incorporate IFRS into the financial reporting system for U.S. issuers. There is currently no estimated date for when such a decision might be made.
Generally Accepted Auditing Standards	GAAS	GAAS are the minimum standards for auditing private companies and come in three categories: general standards, standards of fieldwork, and standards of reporting. PCAOB has adopted these standards for public (i.e., traded on the open market) companies. Each audit engagement may require audit work beyond what is specified in the GAAS in order to provide a written opinion on whether a set of financial statements is, in all material respects, fairly presented in accordance with GAAP.

Law, Regulation, Professional Standard, or Regulatory Organization	Acronym	Description
Generally Accepted Government Auditing Standards	GAGAS	GAGAS provides a framework for conducting high-quality audits of government resources and programs with competence, integrity, objectivity, and independence. Government auditing allows legislators, oversight bodies, those charged with governance, and the public to hold government agencies accountable. GAGAS is used by auditors of government entities, entities that receive government awards, and other audit organizations performing audits. GAO, an independent, nonpartisan agency that works for Congress, is responsible for maintaining and updating GAGAS. GAO is often called the “congressional watchdog” and investigates the executive branch of the federal government.
Chief Financial Officers Act of 1990 (P.L. 101-576)	CFO Act	The CFO Act establishes a leadership structure, provides for long-range planning, requires audited financial statements, and strengthens accountability reporting in the federal government. The aim of the CFO Act is to improve financial management systems and information. The CFO Act also requires the development and maintenance of agency financial management systems that comply with the following: applicable accounting principles, standards, and requirements; internal control standards; OMB requirements; U.S. Treasury requirements; and requirements of other agencies. Reports of audits conducted under the CFO Act are done on an annual basis and must be completed by November 15 following the close of the fiscal year (September 30) for which the financial statements were prepared.
Government Management Reform Act of 1994 (P.L. 103-356)	GMRA	GMRA requires the independent, external audit of agency financial statements and the preparation and audit of a consolidated financial statement for the federal government on an annual basis.
OMB Circular A-136 (Financial Reporting Requirements)	A-136	A-136, which is updated annually by OMB, provides federal guidance for agency and government-wide financial reporting. This circular establishes a central point of reference for all federal financial reporting guidance for the departments, agencies, and entities in the executive branch that are required to submit an Agency Financial Report (AFR) under the CFO Act and the GMRA. In compliance with the CFO Act, the GMRA, and A-136, DOI publishes an AFR every fiscal year.
Federal Financial Management Improvement Act of 1996 (P.L. 104-208)	FFMIA	FFMIA requires federal agencies to implement and maintain financial management systems that substantially comply with federal financial management system requirements, applicable federal accounting standards, and the USGGL at the transactional level.
Federal Information Security Management Act of 2002 (P.L. 107-347)	FISMA	FISMA requires federal agencies to provide information security controls commensurate with the risk and potential harm of not having those controls in place. FISMA also requires the heads of agencies and OIG to conduct annual IT security reviews, perform annual independent evaluations of the effectiveness of the agency’s security programs and systems, and report their results to OMB and Congress.

Law, Regulation, Professional Standard, or Regulatory Organization	Acronym	Description
Federal Accounting Standards Advisory Board	FASAB	FASAB was established in October 1990 by the Secretary of the Treasury, the Director of OMB, and the U.S. Comptroller General. This board possesses the legal authority, under various laws, to establish accounting and financial reporting standards for the federal government. In October 1999, the AICPA recognized FASAB as the board that promulgates GAAP for federal entities.
OMB Circular No. A-123	A-123	A-123 prescribes management's responsibilities for establishing and maintaining effective internal controls and financial management systems that meet the objectives of the Federal Managers' Financial Integrity Act of 1982.
OMB Bulletin 14-02 (Audit Requirements for Federal Financial Statements)		OMB Bulletin No. 14-02, issued on October 21, 2013, establishes minimum requirements for independent audits of federal financial statements. This bulletin implements the audit provisions of the CFO Act, as amended, the GMRA, and FFMIA.





U.S. Department of the Interior

Natural Resources Revenue Data

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United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

MAY 05 2017

Memorandum

To: Assistant Secretaries

From: Director, Office of the Executive Secretariat and Regulatory Affairs *James L. Hill*

Subject: Boards and Commissions

The Secretary is committed to restoring trust in the Department's decision making, and that begins with institutionalizing state and local input and ongoing collaboration.

The Department currently includes more than 200 boards, committees, subcommittees, commissions, and other internal and external advisory bodies (committees) that are authorized to meet periodically and solicit input.

To maximize feedback from these committees and ensure their compliance with the Federal Advisory Committee Act (FACA), the President's recent executive orders, and the Secretary's recent secretary's orders, the Department is currently reviewing the charter and charge of each committee. This review necessitates the postponement of all meetings, which will be rescheduled for September 2017 or later.

To assist with this review, please direct the bureaus/offices you oversee to provide you with the following information by May 22, 2017:

- (1) the most recent charter, and any prior versions if there have been significant changes over time;
- (2) the costs and resources required annually to support the committee;
- (3) a list of both Federal and non-Federal members/alternates, to include their organization, whether they represent the Department of the Interior, and their term limits;
- (4) whether the committee is mandated by statute/law, authorized by statute/law, or established pursuant to Agency authority (provide a copy of the enabling legislation and any amendments);

- (5) brief description of the benefits, services, and/or recommendations provided by the committee to the Department and bureaus (i.e. provide a narrative justification for the committee);
- (6) other information relevant to understanding the purpose of the committee; and
- (7) the most recent annual schedule of meetings, including when the next meeting would be held, the location of the meeting, and if the meeting has been noticed in the Federal Register.

Additional briefings may be scheduled to discuss the material. If you have any questions, please contact the Office of the Executive Secretariat at (202) 208-3181.

cc: Chiefs of Staff
Chiefs of Staff, Bureaus and Offices
FACA Group Federal Officers, Bureaus and Offices

<Member Name>

<Address>

<Address>

<Address>

Dear <Member Name>:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

This journey began in September 2011, when as part of the U.S. Open Government Partnership, the Office of Natural Resources Revenue (ONRR) began collaborating with other Government agencies, departmental bureaus and offices, and industry and civil society stakeholders to implement USEITI. Since the first public meeting in 2013, through to the 20th meeting in 2017, the USEITI Multi-stakeholder Group (MSG) worked collaboratively to successfully reach consensus on how to implement USEITI.

Highlights of our joint commitment to transparency and good governance of U.S. extractive sector revenues include:

- Becoming the first G7 country and second Organization for Economic Cooperation and Development (OECD) country to achieve Candidate Country status and become an EITI implementing country. U.S. leadership has played a crucial role in the endorsement of the EITI by the G-7, the G-20, and the United Nations Security Council.
- Disclosing unilaterally in 2014, for the first time, Department of the Interior (DOI) production data and calendar-year revenue data by company, revenue type, and commodity. The DOI has unilaterally disclosed for calendar years 2013-2015, \$33.1 billion in revenues paid by companies for extraction on Federal lands and waters.
- Publishing in December 2015, the first online Report and Executive Summary on the DOI data portal <https://useiti.doi.gov/>, and in November 2016, the second online Report and Executive Summary. Building on your direction, in December 2017, ONRR will complete a third online report.
- Demonstrating zero unresolved discrepancies between Federal Government disclosed revenues received from oil, gas, and mining companies, with parallel disclosure by companies of what they have paid to the Government in royalties, rents, bonuses, taxes, and other payments.

- Demonstrating DOI has robust ONRR-managed audit and assurances practices in place to assure accountability for the revenues paid and received for our Nation's oil, gas, and mineral resources.
- Building the DOI data portal with modern, open-source technologies so that techniques and tools can be shared and replicated throughout the U.S. and in other EITI countries around the world. The website's open data sets and visualizations can be reused for strategic reporting and reposted and sent through social media, thus further informing the public and open debate on the extractives industry in the U.S. The portal is the new global standard in revenue governance transparency.
- Expanding public awareness of the role of extractive industries at the state and local level. The States of Montana, Wyoming, and Alaska collaborated with USEITI to allow for expanded State reporting of extractive revenues. The MSG also furthered local accountability and transparency by including 12 county case studies that depict the impact of specific extractive industries on local communities.

The EITI Standard fits within ONRR's guiding principles of accountability, professionalism, integrity, partnerships, and innovation. We strive to be recognized as a world-class natural resources revenue management program, setting the standard for accountability and transparency. In the long term, extractive industry transparency should not be confined to EITI reporting, rather be recognized an integral part of how Government manages. Therefore, at DOI we have initiated steps to move towards institutionalizing innovation in digital services and mainstreaming Government extractives revenue data pipelines and end-user needs. Moving forward in this journey, institutionalizing EITI will continue to improve Government revenue transparency in the U.S. and continue to serve as an example internationally.

Again, thank you for your contribution in promoting revenue transparency and accountability in the extractive sector.

Sincerely,

Judy Wilson
Acting Designated Federal Officer,
USEITI Advisory Committee

<Member Name>

<Address>

<Address>

<Address>

Dear <Member Name>:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

This journey began in September 2011, when as part of the U.S. Open Government Partnership, the Office of Natural Resources Revenue (ONRR) began collaborating with other ~~G~~government ~~a~~Agencies, ~~d~~Departmental ~~b~~Bureaus and offices, and industry and civil society stakeholders to implement USEITI. Since the first public meeting in 2013, through to the 20~~th~~th meeting in 2017, the USEITI Multi-stakeholder Group (~~MSG~~) worked collaboratively to successfully reach consensus on how to implement USEITI.

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Judy Wilson
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~~Department of Interior~~



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

UNITED STATES' IMPLEMENTATION OF THE EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

Memorandum

MAY 15 2017

To: Greg Gould
Director, Office of Natural Resources Revenue

From: Mary L. Kendall *Mary L. Kendall*
Deputy Inspector General

Subject: Final Inspection Report – United States' Implementation
of the Extractive Industries Transparency Initiative
Report No. 2016-EAU-041

This memorandum transmits the findings of our inspection of the United States' implementation of the Extractive Industries Transparency Initiative (EITI). Our inspection objective was to determine the status of the U.S. implementation of the EITI standard. We are not making any recommendations in this report but are providing it for information purposes only.

The legislation creating the Office of Inspector General requires that we report to Congress semiannually on all audit, inspection, and evaluation reports issued; actions taken to implement our recommendations; and recommendations that have not been implemented.

If you have any questions concerning this report, please do not hesitate to contact me at 202-208-5745.

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Results in Brief

The United States (U.S.) has made significant progress meeting the individual requirements necessary to achieve compliant status with the Extractive Industries Transparency Initiative (EITI). EITI is a global initiative that promotes revenue transparency and accountability for natural resource extraction. The Department of the Interior (DOI) works in collaboration with industry and civil society partners¹ to implement EITI on behalf of the United States.

Our review found that the U.S. has met seven of the eight EITI requirements and partially met one requirement in its effort to achieve EITI compliant status, the highest level of implementation. It has only partially met the revenue collection requirement (Requirement 4) because it has been unable to obtain full disclosure of extractive resource payments from companies, thus preventing the required reconciliation to Government receipts. In addition, the U.S. has encountered challenges as part of its participation in EITI that could prevent it from reaching the goal of compliant status. Should the U.S. not achieve compliant status, its standing in EITI would be diminished.

In spite of the framework laid out in Requirement 4 and the ensuing challenges, the U.S. could still meet this requirement. Through its regular ongoing operations, the U.S. has a system in place that achieves the standard's disclosure and reconciliation requirement, through a process known as mainstreaming. This reporting method may enable the U.S. to meet the EITI reporting and reconciliation mandates without necessarily following the prescriptive language of the standard.

We are not making any recommendations in this report but are providing this document for informational purposes to the Office of Natural Resources Revenue—DOI's EITI representative—and to the members of the U.S. EITI multi-stakeholder group for use as they move forward.

At the close of our field work, senior Government officials disclosed that the U.S. was considering all options associated with the validation process in spite of uncertainties in achieving Requirement 4. We learned that the U.S. is scheduled to undergo validation in April 2018, even though it expects the EITI international board to find that it has made inadequate progress toward validation. If that occurs, the U.S. likely would transition from an implementing country to a country that only supports EITI. The U.S. intends to continue its efforts to disclose revenue and maintain its public website by institutionalizing EITI processes.

¹ Civil society is defined as community and citizenry involvement. In the U.S., it includes academia, non-governmental organizations, and labor unions.

Introduction

Objective

We conducted this inspection to determine the status of the United States' implementation of the Extractive Industries Transparency Initiative (EITI) standard.

Appendix 1 contains the scope and methodology, as well as sites visited.

Background

EITI is a global initiative that aims to promote revenue transparency and accountability for natural resource extraction (e.g. oil, natural gas, coal, non-energy minerals such as gold, and renewable energy). The initiative grew out of concern about corruption and mismanagement of these resources worldwide. Many EITI participating countries are in developing parts of the world, and the initiative seeks to strengthen these government and company systems. The U.S. Government, however, has long had a management system featuring numerous controls and protections to oversee natural resource extraction, which helps reduce the risk of corruption.

As a leading extractive producer of such natural resources as oil, natural gas, and coal, the U.S. announced its intention to join EITI in September 2011. The Secretary of the Interior serves as the Administration's senior official responsible for EITI implementation. The Office of Natural Resources Revenue (ONRR) within DOI serves as the Government's lead representative on the multi-stakeholder group (MSG). The U.S. has been working toward achieving compliant status, and validation is scheduled to begin in April 2018.

To date, DOI expenditures for EITI have totaled approximately \$6.5 million, of which the Government spent \$2.8 million in fiscal year 2016. The largest expenditures included Government labor and contracts for outside services. Current estimates of expenditures for reconciliation of Government receipts to company payments total \$519,000 per year.

The EITI standard has eight primary requirements and multiple subparts that countries must follow when implementing EITI. A synopsis of the eight EITI standard requirements is detailed in Figure 1 below.

EITI Standard Requirements

I: Multi-stakeholder group oversight. Government, industry, and civil society engagement.

EITI Standard Requirements	
2: Legal and institutional framework.	Disclosure of legal framework and fiscal regime governing extractive industries.
3: Exploration and production.	Disclosure of exploration and production activities, as well as export data.
4: Revenue collection.	Disclosure and reconciliation of company payments and Government revenues.
5: Revenue allocations.	Disclosure of revenue distribution, revenue management, and expenditures.
6: Social and economic spending.	Disclosure of social expenditures and the extractive sector's impact on the economy.
7: Outcomes and impact.	Disclosure of discrepancies identified in EITI reports, as well as lessons learned during implementation.
8: Compliance and deadlines for implementing countries.	Outlines timeframes established by the EITI international board and consequences of noncompliance with the deadlines and requirements for EITI implementation.

Figure 1. A full explanation of EITI requirements is available at <https://eiti.org/eiti-requirements>.

The initiative is implemented by governments, in collaboration with the MSG, which includes industry and civil society, the latter defined as community and citizenry involvement (e.g. academia and non-governmental organizations). In the U.S., MSG formation in 2012 brought together these three sectors for the first time to achieve a common goal. Initially skeptical, MSG members found that genuine cooperation could generate appreciation for differing viewpoints.

EITI has 56 participating countries. Each country that chooses to implement the EITI standard must establish an MSG that oversees implementation. In addition, most countries, including the U.S., create a national secretariat with a full-time staff to administer the program. The EITI international board, headquartered in Oslo, Norway, is the governing body. Countries implementing the standard publish an annual report in which governments publicly disclose payments received from companies obtaining extractive resources, which an independent administrator reconciles with payments disclosed by those companies.

Countries join EITI with the goal of achieving compliance with the EITI standard. To achieve compliant status, a country must go through the EITI validation process. This includes a comprehensive evaluation of the country's progress toward achieving the eight requirements, as determined by the EITI international board. A country must make satisfactory progress on each requirement in the standard in order to achieve compliant status.

Results

Progress in Complying with EITI

The U.S. has been working on EITI implementation since 2011. It has made significant progress meeting the individual requirements necessary to achieve the highest level of EITI implementation, known as compliant status. Based on our analysis, the U.S. has met seven of the eight requirements and partially met Requirement 4, which necessitates that all Government revenue receipts be reported and subjected to reconciliation. Reconciliation involves comparison of Government receipts to company payments, and explains significant discrepancies between the two. This activity is performed by a third party, known as the independent administrator. The Office of Inspector General (OIG) independently assessed the status of DOI's EITI implementation, as shown in Figure 2.²

OIG Assessment of DOI EITI Implementation		
Requirement	Status	Comments
I – MSG oversight.	Met	MSG formed, with equal representation by government, industry, and civil society. All required meetings and work products achieved.

² The EITI international board is the body that officially determines whether a country has fulfilled the standard, and sets four categories of progress for assessing a country's compliance with each requirement: satisfactory, meaningful, inadequate, and no progress. Our determination of the status does not directly align with those categories identified in the standard. Our assessment was not intended to mirror the board or duplicate any effort. For simplicity, we established our own categories: met, partially met, and not met.

OIG Assessment of DOI EITI Implementation

Requirement	Status	Comments
2 – Legal and institutional framework.	Met	<p>Collaborating with the General Services Administration, DOI produced a public website known as the portal, which houses natural resource data along with the electronic version of the annual EITI report. We found that the portal, which went online in December 2015, presents natural resource-related information in a user-friendly format. The international board has recognized the portal as a model for other countries to emulate.</p> <p>Online data portal provides details on allocation of contracts and licenses, with links to Bureau of Land Management and Bureau of Ocean Energy Management websites.</p>
3 – Exploration and production.	Met	Online data portal provides details on fossil fuels, renewable energy, and non-energy minerals, as well as exports of various commodities.
4 – Revenue collection.	Partially Met	Low disclosure of nontax and tax revenues by companies prevent required comprehensive reconciliation of Government revenue receipts to company payments.
5 – Revenue allocations.	Met	Online data portal provides details on all revenue streams, distribution of revenues, and recipients.
6 – Social and economic spending.	Met	Online data portal provides details on extractive sector contributions to the economy.

OIG Assessment of DOI EITI Implementation		
Requirement	Status	Comments
7 – Outcomes and impact.	Met	<p>Online data portal contains recommendations for addressing reconciliation discrepancies and improving the EITI process.</p> <p>To illustrate extractive industry impacts on local communities, the annual report includes 12 county case studies from across the country, as well as data from 18 states, in an effort to increase public awareness.</p> <p>MSG has actively solicited input from the general public concerning U.S. involvement in EITI. Public interest in EITI is not yet strong, but MSG efforts to obtain outside input and to publish meeting minutes promote EITI's principles of openness and transparency.</p>
8 – Compliance and deadlines for implementing countries.	Met	Deadlines for annual progress reports met, and deadlines for EITI reports surpassed.

Figure 2: OIG's assessment of DOI implementation of EITI requirements.

Challenges in Complying with EITI Revenue Collection Requirement

DOI faces numerous difficulties in trying to meet Requirement 4. Some are less challenging than others, providing opportunities for solutions, while others may offer no alternative course of action.

Voluntary initiative

The voluntary nature of EITI makes full company participation in nontax and tax revenue disclosures difficult to obtain. Companies are not compelled to report revenue and tax data, and do not see the benefit of participation. Consequently, a significant number have chosen not to participate.

U.S. privacy laws

Section 6103 of the Internal Revenue Code (26 U.S.C.) provides for the confidentiality of tax returns and return information. It prevents the U.S. Internal

Revenue Service (IRS) from disclosing returns and return information unless the taxpayer authorizes the release or one of several exceptions are met.

Low company participation

EITI Requirement 4 calls for comprehensive disclosure and reconciliation of company payments and Government revenues from extractive industries. Companies make payments to the U.S., and the payments are considered revenues when collected.

In the U.S., revenues associated with extractive industries consist of two categories—nontax and tax. Nontax revenues are comprised of 11 revenue streams (e.g., royalties, bonuses, rents, inspection and permit fees, and civil penalties), whereas tax revenues represent corporate income tax payments reported to the IRS.

Requirement 4 presents a major challenge for the U.S. because of the numerous companies that operate on Federal lands and large sums of revenue involved. Specifically, more than 3,000 companies paid the Federal Government \$12.64 billion and \$7.80 billion in nontax extractive revenue for the 2015 and 2016 reports, respectively. Since full company participation in the initiative would have been too time consuming and costly to accomplish, the MSG decided to select a manageable sample of companies. This required establishing materiality thresholds, as the standard allows, for company reporting and subsequent reconciliation. The MSG found that a significant and achievable sample of companies could be selected by setting the threshold at \$50 million and \$37.5 million of total annual revenue reported to ONRR by a parent company, including its subsidiaries, for 2015 and 2016. The threshold amount varies yearly due to changes in commodity prices, which in turn affects the amount of payments made to ONRR. For nontax revenues, this reduced the 3,000 company universe to 45 companies for the 2015 annual report, and 41 companies for the 2016 report. For tax revenues, the sample became 41 companies for the 2015 report, and 38 companies for the 2016 report. The number of companies can change from year to year due to factors such as mergers, acquisitions, and bankruptcies.³

Unfortunately, a significant number of companies that were asked to participate declined the request, and so the amount of revenues actually reported and reconciled were far less than the 80 percent target (see Figure 3).⁴ We determined the U.S. has only partially met Requirement 4. Since the EITI standard requires comprehensive company disclosure, this low level of company participation is of concern as the U.S. seeks validation.

³ Companies chosen for participation represent the largest producers of oil, gas, coal, and hard rock in the U.S., including, among others, ExxonMobil Corporation, Chevron Corporation, Shell E&P Company, Arch Coal, Inc., and Peabody Energy Corporation.

⁴ Although the target for reconciling tax revenue was all the companies asked to participate in EITI, the U.S. did not report the total amount of tax revenue because companies are not required to disclose this information.

Results From Companies Subject To Reconciliation (Dollars in Billions)				
Report Year	Nontax		Tax	
	Target	Achieved	Target	Achieved
2015				
Number of Companies Disclosed	45	31 (69%)	41	12 (29%)
Number of Companies Reconciled	45	31 (69%)	41	5 (12%)
Revenues Reconciled	\$10.44	\$8.50 (81%)		
2016				
Number of Companies Disclosed	41	25 (61%)	38	12 (32%)
Number of Companies Reconciled	41	25 (61%)	38	7 (18%)
Revenues Reconciled	\$6.11	\$4.83 (79%)		

Figure 3. Information about companies not disclosing their payments. In the tax column, the target for revenues reconciled could not be established and reconciled because most companies did not report tax data. The independent administrator reconciled all of the revenue that companies reported, but the reconciliation did not reflect the target revenues.

Subnational reporting

The EITI standard requires that MSG establish whether or not direct payments from companies to subnational government entities (states and tribes in the U.S.) are significant.⁴ If significant, then disclosure and reconciliation of payments to these entities are included in the EITI report. Given significant practical barriers to collecting data from all 50 states, the MSG focused its efforts on 18 states with the most extractive revenue.

To date, only three of these 18 states have chosen to disclose data about their extractive industries. These three still have not agreed to reconcile company payments to Government receipts. Further, since U.S. law recognizes tribes as

⁴ Subnational is defined as below the national Government level—in the U.S. this refers primarily to state and tribal governments.

sovereign nations, they are not bound to participate in EITI, and no tribes have volunteered for this purpose.

Although the U.S. received approval from the EITI international board to deviate from full subnational reporting for past reports, it has no guarantee that this approval will continue in the future. The U.S. EITI MSG endorsed a renewed request to deviate from subnational reporting, which it submitted to the international board in December 2016.

Beneficial ownership

As of January 2020, the standard requires disclosure of beneficial ownership information in the EITI report. Beneficial ownership refers to individuals who directly or indirectly own or control a corporate entity.

In December 2016, the U.S. published its “roadmap” or plan for meeting the future beneficial ownership disclosure requirement. Collection and disclosure of this information may prove problematic, however, since the U.S. does not have an institutional structure for public disclosure of beneficial ownership, and voluntary participation may produce limited results. For example, DOI does not have any mechanism to collect beneficial ownership information when conducting lease sales related to extractive industry operating rights on U.S. Federal lands or for regulating extractive operations, as well as collecting production related fees and royalties.

Mainstreaming

Mainstreaming is a mechanism through which countries disclose revenue collection, accounting, and disbursement as part of routine Government operations. It is advantageous for two reasons – first, it highlights countries that make transparency an integral and routine feature of their management systems. Second, countries that achieve mainstreaming do not have to undergo the reconciliation process. To achieve mainstreaming, the U.S. must submit to a rigorous application process, which is subject to approval by the international board.

We found the U.S. is actively pursuing mainstreaming to satisfy Requirement 4 by reporting that it routinely discloses 100 percent of all nontax revenue streams. In addition, the U.S. is preparing a thorough description of its robust audit processes and procedures for the 2017 annual report. Among these are the following—

- ONRR and its State and tribal partners help ensure that companies pay correctly through the use of audits, compliance reviews, data mining, and an enforcement program;
- ONRR accounts for nontax revenues using company-submitted royalty reports—more than 150 up-front automated edits of these reports help detect irregularities;
- Bureau of Land Management and Bureau of Safety and Environmental Enforcement conduct physical inspections of lease operations;

- An independent accounting firm annually audits DOI's financial statements, which include extractive revenue;
- DOI and DOI's bureaus are independently audited by the Office of Inspector General, and IRS receives audit oversight from the Treasury Inspector General for Tax Administration; and
- IRS verifies tax payments made by companies.

These processes and procedures ensure accountability for 100 percent of natural resource revenues. Accordingly, the U.S. could be in compliance with Requirement 4, even if full reporting and reconciliation from the EITI international board is considered questionable. Although mainstreaming could be a possible solution to demonstrate that the U.S. has complied with Requirement 4, the request has not yet been approved by the international board. Further, it is questionable whether or not the international board would grant such approval. Also, the U.S. still has work left to accomplish in order to develop the contextual narrative of its audit processes and procedures in a manner that fully demonstrates compliance with Requirement 4.

At the close of our field work, Government senior officials disclosed that the U.S. is considering all options regarding validation. It expects to produce its third annual report in December 2017 and undergo validation in April 2018. Although it has met 7 out of 8 requirements it expects not to be found in compliance with the EITI standard until companies follow through on EITI reporting requirements outlined in Requirement 4. Instead, the U.S. will move from being an implementing country to only a supporting country of EITI. Nevertheless, the U.S. intends to continue its efforts to disclose revenue and maintain the online data portal, thus institutionalizing EITI processes.

Appendix I: Scope and Methodology

Scope

Our inspection examined the activities of the United States' implementation of the Extractive Industry Transparency Initiative (EITI) since 2011.

Methodology

We conducted this review from June 2016 through March 2017. During our inspection, we—

- reviewed relevant laws, regulations, policies and procedures concerning U.S. EITI implementation;
- reviewed and analyzed data and documents, both hardcopy and electronic;
- reviewed the EITI standard and requirements;
- attended two multi-stakeholder group meetings;
- interviewed representatives from the EITI international board's secretariat and U.S. Department of State;
- interviewed key members of Government, industry, and civil society sectors;
- interviewed the Director of the Office of Natural Resources Revenue (ONRR) and key agency staff with EITI responsibilities; and
- interviewed key representatives from the independent administrator, Deloitte Touche, LLP.

We visited—

- ONRR offices in Washington, D.C., and Lakewood, CO; and
- Deloitte Touche, LLP, in Arlington, VA.

We did not test operation and reliability of internal controls related to U.S. EITI. We were provided with computer-generated data related to EITI expenditures, which we used but did not test for completeness and accuracy.

We conducted this inspection in accordance with the Quality Standards for Inspection and Evaluation as put forth by the Council of the Inspectors General on Integrity and Efficiency. We believe that the work performed provides a reasonable basis for our conclusion.

Report Fraud, Waste, and Mismanagement



Fraud, waste, and mismanagement in Government concern everyone: Office of Inspector General staff, departmental employees, and the general public. We actively solicit allegations of any inefficient and wasteful practices, fraud, and mismanagement related to departmental or Insular Area programs and operations. You can report allegations to us in several ways.



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By Mail:	U.S. Department of the Interior Office of Inspector General Mail Stop 4428 MIB 1849 C Street, NW. Washington, DC 20240	

Jim Steward
Office of Natural Resources Revenue
PO Box 25165
Denver, CO 80225

Dear Mr. Steward:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

This journey began in September 2011, when as part of the U.S. Open Government Partnership, the Office of Natural Resources Revenue (ONRR) began collaborating with other government Agencies, Departmental Bureaus and offices, and industry and civil society stakeholders to implement USEITI. Since the first public meeting in 2013, through to the 20th meeting in 2017, the USEITI Multi-stakeholder Group worked collaboratively to successfully reach consensus on how to implement USEITI.

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Again, thank you for your contribution in promoting revenue transparency and accountability in the extractive sector.

Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Bruce Barnett
Choctaw Nation
130 Jaron Drive
Pottsboro, TX 75076

Dear Mr. Barnett:

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Again, thank you for your contribution in promoting revenue transparency and accountability in the extractive sector.

Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Marina Voskanian
California State Lands Commission
320 West Bixby Road
Long Beach, CA 90807

Dear Ms. Voskanian:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

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Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Julie Lenoir
Blackfeet Nation
620 All Chiefs Road P.O. Box 2929
Browning, Montana 59417

Dear Ms. Lenoir:

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Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Curtis Carlson
Office of Tax Analysis
1500 Pennsylvania Avenue NW
Washington, DC 20220

Dear Mr. Carlson:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

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Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Gould Gould
Office of Natural Resources Revenue
1849 C Street NW, MS 5134
Washington, DC 20240

Dear Mr. Gould:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

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Judy Wilson
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Mike Matthews
State of Wyoming
5019 Atlantic Dr.
Cheyenne, WY 82001

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Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
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Department of Interior

Mike Smith
Interstate Oil & Gas Compact Commission
P.O. Box 53127
Oklahoma City, OK 73152-3127

Dear Mr. Smith:

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Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
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Claire Ware
Shoshone & Arapaho Tribes
P.O. Box 506
Fort Washakie, WY 82514

Dear Ms. Ware:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

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Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
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David Chambers
Center for Science in Public Participation
224 North Church Ave
Bozeman, MT 59715-3706

Dear Mr. Chambers:

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Sincerely,

Judy Wilson
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Daniel Dudis
Public Citizen
2231 California St NW, APT 401
Washington, DC 20008

Dear Mr. Dudis:

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Again, thank you for your contribution in promoting revenue transparency and accountability in the extractive sector.

Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Lynda Farrell
Pipeline Safety Coalition
331 Norwood Rd.
Downington, PA 19335

Dear Ms. Farrell:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

This journey began in September 2011, when as part of the U.S. Open Government Partnership, the Office of Natural Resources Revenue (ONRR) began collaborating with other government Agencies, Departmental Bureaus and offices, and industry and civil society stakeholders to implement USEITI. Since the first public meeting in 2013, through to the 20th meeting in 2017, the USEITI Multi-stakeholder Group worked collaboratively to successfully reach consensus on how to implement USEITI.

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Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
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Zorka Milin
Global Witness
38 Crown Street, Apt 317
New Haven, Connecticut 06510

Dear Ms. Milin:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

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Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Jana Morgan
Publish What You Pay
1101 17th Street, NW
Washington, District of Columbia 20001

Dear Ms. Morgan:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

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Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Isabel Munilla
Oxfam America
1101 17th Street, NW, Suite 1300
Washington, District of Columbia 20036

Dear Ms. Munilla:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

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Judy Wilson
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Rebecca Adamson
First Peoples Worldwide
877 Leeland Road
Fredericksburg, Virginia 22405

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Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Danielle Brian
Project on Government Oversight
1100 G St. NW, Suite 500
Washington, DC 20005

Dear Ms. Brian:

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Sincerely,

Judy Wilson
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Neil Brown
Lugar Center
1717 Rhode Island Avenue, NW, 9th Floor
Washington, District of Columbia 20036

Dear Mr. Brown:

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Judy Wilson
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Paul Bugala
7523 17th Ave. NW
Seattle, WA 98117

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Judy Wilson
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Jennifer Krill
Earthworks
2216C Sacramento Street
Berkeley, CA 94702

Dear Ms. Krill:

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Again, thank you for your contribution in promoting revenue transparency and accountability in the extractive sector.

Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Michael LeVine
Oceana
175 S. Franklin St. Suite 418
Juneau, AK 99801

Dear Mr. LeVine:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

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Judy Wilson
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Keith Romig
United Steelworkers
110 Kendall Ave.
Pittsburgh, PA 15202

Dear Mr. Romig:

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Judy Wilson
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Michael Ross
Natural Resource Governance Institute
4289 Bunche Hall, Box 951472
Los Angeles, CA 90095-1472

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Brian Sanson
United Mine Workers of America
18354 Quantico Gateway Drive
Triangle, Virginia 22172

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Vernoica Slajer
North Star Group
203 Maryland Avenue, NE
Washington, District of Columbia 20002

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Betsy Taylor
Lane Hall 112, Virginia Tech (227)
280 Alumni Mall
Blacksburg, Virginia 24061

Dear Ms. Taylor:

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Stella Alvarado
Anadarko Petroleum
1201 Lake Robbins
The Woodlands, Texas 77380

Dear Ms. Alvarado:

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Michael Gardner
Rio Tinto
5769 W Maddie Lane
Highland, UT 84003

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Edwin Mongan
BHP Billiton Petroleum
13690 Post Oak Road Building 1330, Room 1716
Houston, Texas 77056

Dear Mr. Mongan:

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Again, thank you for your contribution in promoting revenue transparency and accountability in the extractive sector.

Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Nicholas Welch
Noble Energy Inc.
1776 I Street, NW, Suite 890
Washington, D.C. 20006

Dear Mr. Welch:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

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Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
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Chris Chambers
Freeport-McMoRan Copper & Gold Inc.
333 North Central Ave.
Phoenix, AZ 85004

Dear Mr. Chambers:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

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Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Nicholas Cotts
Newmont Mining
6363 S. Fiddlers Green Circle
Greenwood Village, Colorado 80111

Dear Mr. Cotts:

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Judy Wilson
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Department of Interior

Phil Denning
Shell Oil & Gas
2227 Braer Ridge Drive
Katy, TX 77494

Dear Mr. Denning:

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Department of Interior

Susan Ginsberg
Independent Petroleum Association of America
1201 15th Street NW, Suite 300
Washington, District of Columbia 20005

Dear Ms. Ginsberg:

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Judy Wilson
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Veronika Kohler
National Mining Association
101 Constitution avenue NW
Washington, District of Columbia 20005

Dear Ms. Kohler:

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Aaron Padilla
API
19 E. Oak St.
Alexandria, VA 22301

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David Romig
Freeport-McMoRan Oil & Gas
700 Milam, Suite 3100
Houston, TX 77002

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Johanna Nesseth
Chevron
1401 I Street, NW
Washington, DC 20005

Dear Ms. Nesseth:

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Again, thank you for your contribution in promoting revenue transparency and accountability in the extractive sector.

Sincerely,

Judy Wilson
Acting Designated Federal Official, USEITI
Advisory Committee
Department of Interior

Michael Blank
Peabody Energy
8502 Cottage St.
Vienna, VA 22180

Dear Mr. Blank:

Thank you for participating in the United States Extractive Industries Transparency Initiative (USEITI) Advisory Committee. Your work helped to make the public more aware of the contributions of the extractive industries to the U.S. economy and jobs.

This journey began in September 2011, when as part of the U.S. Open Government Partnership, the Office of Natural Resources Revenue (ONRR) began collaborating with other government Agencies, Departmental Bureaus and offices, and industry and civil society stakeholders to implement USEITI. Since the first public meeting in 2013, through to the 20th meeting in 2017, the USEITI Multi-stakeholder Group worked collaboratively to successfully reach consensus on how to implement USEITI.

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Beneficial Ownership Roadmap



The United States Extractive Industries
Transparency Initiative

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4.1 Consider how beneficial ownership disclosure can support national reform priorities

The U.S. has focused on beneficial ownership disclosure efforts both domestically and internationally. The U.S. has led efforts within the major economic powers of the G-8, and the Financial Action Task Force (FATF), to strengthen international standards on combatting money laundering and terrorist financing and to facilitate their implementation. As part of the U.S. G-8 Action Plan for Transparency of Company Ownership and Control, the G-8 has called for law enforcement's access to accurate and current beneficial ownership information at the time of company formation.

The FATF is the international standard-setting body for safeguarding against money laundering and combatting the financing of terrorism. The FATF initially set international standards on beneficial ownership in 1990. In 2012, FATF strengthened its standards, which now focus on the collection of beneficial ownership information and making the information available to competent authorities. The U.S. is committed to—and strongly supports other countries—working toward developing and effectively implementing the legal frameworks that facilitate access to beneficial ownership information in accordance with the FATF standards.

Domestically, since President Obama signed the Foreign Account Tax Compliance Act (FATCA), the precursor of the Common Reporting Standard, into law in 2010, the U.S. has negotiated agreements with more than 100 countries that help these countries implement FATCA. FATCA's pioneering approach to automatic information sharing on tax matters is the template for the development of international standards that the G-20 nations have endorsed and are being deployed around the world.

Further, the Administration recently made efforts to compel the collection of and access to beneficial ownership information. On May 6, 2016, the Department of the Treasury (Treasury), on behalf of the Administration, sent beneficial ownership legislation to Congress. This proposed legislation would require companies that are formed within the U.S. to file beneficial ownership information with Treasury, or else they will face penalties for failing to comply. This proposal would increase the transparency into "beneficial ownership" of companies formed in the U.S. by requiring companies to know and report their true owners and to provide additional law enforcement tools to combat corruption and money laundering. Treasury remains committed to working with Congress to pass beneficial ownership legislation.

See <https://www.treasury.gov/press-center/press-releases/Documents/20160506%20BO%20Legislation.pdf> for the draft legislation. `

While obtaining beneficial ownership information at the time of company formation is important, obtaining beneficial ownership information at the time of the account opening is also key. To that end, on May 11, 2016, Treasury issued a final customer due diligence rule (CDD Rule), which was a four-year effort that included a significant comment period. The CDD Rule streamlines and clarifies several components of customer due diligence under the Bank Secrecy Act to promote consistency. The CDD Rule also adds a key new requirement for U.S. financial institutions to know the real people who own, control, and profit from companies (the "beneficial owners") and verify their identities. When companies open a new account at covered financial institutions, the customer will be required to disclose the identity of (1) each individual who owns 25 percent or more of the company and (2) an individual who controls the company. These requirements are consistent with FATF standards.

The CDD Rule will apply to over 29,000 institutions in the U.S., and it is the first of two steps to ensure financial transparency. The CDD Rule clarifies and strengthens customer due diligence requirements for banks; brokers or dealers in securities; mutual funds; futures commission merchants; and introducing brokers in commodities. As demonstrated through the Panama Papers, companies formed in one jurisdiction may bank in a different jurisdiction. For example, a person can form a company abroad and

use that company to open a bank account in the U.S., or a person can form a company in the U.S. and use the company to open an account abroad. As such, it is important to have both the CDD Rule as well as beneficial ownership legislation to capture information at both company formation and at the account opening.

The Administration is also focused on beneficial ownership for tax compliance. Toward those efforts, also in May 2016, Treasury and the Internal Revenue Service (IRS) issued foreign-owned single-member Limited Liability Companies (LLC) proposed regulations that would close a loophole in U.S. laws that has allowed foreign persons to hide assets or financial activity behind anonymous entities established in the U.S. The rule will require foreign-owned entities that are “disregarded entities” for tax purposes, including foreign-owned single-member LLCs, to obtain an Employer Identification Number (EIN) with the IRS and annually report transactional information with their owners to the IRS. These entities represent a narrow class of foreign-owned U.S. entities that have previously had no obligation to report information to the IRS or to get a tax identification number and, thus, could be used to shield the foreign-based owners of non-U.S. assets or non-U.S. bank accounts. The proposed rule will strengthen the IRS’s ability to prevent the use of these entities for tax avoidance purposes, and it will build on the success of other efforts to curb the use of foreign entities and accounts to evade U.S. tax.

Along with the Treasury proposals, the Department of Justice sent several pieces of draft legislation to Congress to combat transnational corruption. This legislation would enhance law enforcement’s ability to prevent bad actors from concealing and laundering illegal proceeds of transnational corruption. It would also allow U.S. prosecutors to more effectively pursue kleptocracy cases and prosecute money laundering as part of foreign corruption. The proposals would assist investigators and prosecutors in gathering evidence, which can be used in prosecuting those who seek to hide and move illegal funds. For a list of the various legislations, see <https://www.justice.gov/opa/pr/justice-department-proposes-legislation-advance-anti-corruption-efforts>.

Also in May 2016, through a letter from Treasury Secretary Lew, the Administration called upon the U.S. Senate to approve tax treaties that have been pending for several years, and that would help crack down on offshore tax evasion. There are eight such tax treaties with other countries, including amendments to our existing treaties with Switzerland and Luxembourg that would better equip the U.S. to obtain information about U.S. taxpayer activity in those countries. The inability to obtain this information has impeded investigations and enforcement relating to offshore tax evasion. The Administration also renewed its call for Congress to act to strengthen authorities and to close the gaps in U.S. laws that can be abused by bad actors and would keep the U.S. at the forefront of international efforts to combat financial crimes. For Secretary Lew’s letter to Congress, see <https://www.treasury.gov/press-center/press-releases/Documents/Lew%20to%20Ryan%20on%20CDD.PDF%20%20>.

The President has proposed providing full “reciprocity” under FATCA in the last three budgets he submitted to Congress. Secretary Lew’s letter reiterates that Congress should act on the Administration’s legislative proposal as soon as possible in order to ensure that the U.S. meets international standards. Any increase in availability of beneficial ownership in extractive industry companies would be supportive of this active and ongoing larger U.S. government effort both domestically and internationally.

4.2 Consider the institutional framework for beneficial ownership disclosure

There is no institutional framework for public disclosure of beneficial ownership disclosure information in the U.S. There is, however, a substantial and growing framework for the collection on beneficial

ownership information from both public and private companies operating in the U.S. Below is a discussion of the various U.S. mechanisms to collect beneficial ownership information.

State Government Requirements Related to Legal Entity Formation

States manage the corporate formation process, and information gathering requirements vary widely from State to State. No State requires persons forming corporations to name beneficial owners at the time of corporate formation.

While no State registries consistent with the EITI Standard exist, there is an existing framework at the State level (the incorporation system), which collects much of this data and, in some cases, makes it public upon request. Examples of States that make certain data on incorporated companies accessible to the public through online systems include Alabama¹, Connecticut², Massachusetts³, Nebraska⁴, North Carolina⁵, Texas⁶, and Virginia⁷.

Requirements to Obtain an Employer Identification Number from the Internal Revenue Service

U.S. law requires all legal entities that have a Federal tax filing requirement obtain an EIN for tax administration purposes. Further, an entity is required to obtain an EIN if it has employees, or is required to file documents other than tax returns, with the IRS. An EIN is also required by all legal entities, under the Banking Secrecy Act, to open a bank account. In order to obtain an EIN, an entity must file a Form SS-4, which was amended in 2010 to require that a “responsible party” be named. The responsible party is generally defined as “the person who has a level of control over, or entitlement to, the funds or assets in the entity that, as a practical matter, enables the individual, directly or indirectly, to control, manage, or direct the entity and the disposition of its funds or assets.” Additionally, any changes in the “responsible party” identified on Form SS-4 must be reported to the IRS within 60 days using a Form 8822-B.

Public Company Disclosure Requirements Implemented by SEC under the Exchange Act

Section 13(d) of the Securities Exchange Act of 1934 requires any person or group that acquires more than five percent “beneficial ownership” of public company equity securities to disclose its position within 10 days of crossing the threshold. SEC rules currently define “beneficial owner” to include any person who directly or indirectly shares voting or investment power in (the power to sell) the security, even if the shares are held by somebody else.

Possible Department of the Interior Mechanisms

The Department of the Interior (DOI) does not currently receive or have any mechanism to collect beneficial ownership information to fulfill its regulatory mandate to conduct lease sales for extractive industry operating rights on U.S. Federal lands or for regulating extractive operations and collecting production related fees and royalties. However, DOI is in contact with many of the entities for which beneficial ownership data is sought through its bidding and payment collection processes.

The EITI Standard requires that the Multi-Stakeholder Group (MSG) publish a roadmap for disclosing beneficial ownership information, determine all milestones and deadlines in the roadmap, evaluate

¹ <http://www.sos.alabama.gov/government-records/business-entity-records>

² <http://www.ct.gov/sots/site/default.asp>

³ <https://www.sec.state.ma.us/cor/>

⁴ <https://www.nebraska.gov/sos/corp/corptestsearch.cgi>

⁵ <https://www.sosnc.gov/corporations/>

⁶ <http://www.sos.state.tx.us/Corp/sosda/index.shtml>

⁷ <https://www.scc.virginia.gov/clk/bussrch.aspx>

implementation of the roadmap, discuss and agree on a definition of beneficial ownership and the relevant identifying information to be disclosed, and agree to an approach for assuring the accuracy of the beneficial ownership information participating companies provide. The USEITI MSG, which DOI convened, will undertake these discussions, which will inform further steps to implement the EITI Standard in the U.S., including potential DOI mechanisms.

There is a statutory prohibition against agencies taking action that is outside their statutory authority. "To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall -- (2) hold unlawful and set aside agency action, findings, and conclusions found to be -- (C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right [or] (D) without observance of procedure required by law[.]" 5 U.S.C. 706.

4.3 Consider how to develop a definition of beneficial ownership

First, it is helpful to reiterate EITI guidance (Section 2.5 (f)) for definition of beneficial ownership:

- i. A beneficial owner in respect of a company means the natural person(s) who directly or indirectly ultimately owns or controls the corporate entity.
- ii. The multi-stakeholder group should agree on an appropriate definition of the term beneficial owner. The definition should be aligned with (f)(i) above and take international norms and relevant national laws into account, and should include ownership threshold(s). The definition should also specify reporting obligations for politically exposed persons.

Second, as noted above, the U.S. does not have a single definition of beneficial ownership, so looking at the various definitions is instructive.

As described above, the CDD Rule includes a definition of beneficial ownership. More specifically the rule states:

(d) Beneficial owner. For purposes of this section, beneficial owner means each of the following:

(1) Each individual, if any, who, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, owns 25 percent or more of the equity interests of a legal entity customer; and (2) A single individual with significant responsibility to control, manage, or direct a legal entity customer, including: (i) An executive officer or senior manager (e.g., a Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Managing Member, General Partner, President, Vice President, or Treasurer); or (ii) Any other individual who regularly performs similar functions.

Additionally, as mentioned above, the EIN form includes the responsible party, which is similar, although not equivalent to, a beneficial owner. The term "responsible party" is defined for non-publicly traded companies as:

The person who has a level of control over, or entitlement to, the funds or assets in the entity that, as a practical matter, enables the individual, directly or indirectly, to control, manage, or direct the entity and the disposition of its funds or assets.

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November 16-17, 2016**

As discussed above, the SEC has a definition of beneficial ownership for purposes of investor protection: (Exchange Act Section 13d). Specifically, Section 13(d) of the Securities Exchange Act of 1934 requires:

...any person or group that acquires more than five percent “beneficial ownership” of public company equity securities to disclose its position within 10 days of crossing the threshold. SEC rules currently define “beneficial owner” to include any person who directly or indirectly shares voting or investment power in (the power to sell) the security, even if the shares are held by somebody else.

Internationally, the U.S. issued an action plan released after the G-8 agreed to beneficial ownership principles in June 2013. The action plan included the following definition:

...a natural person who, directly or indirectly, exercises substantial control over a covered legal entity or has a substantial economic interest in, or receives substantial economic benefit from, such legal entity, subject to several exceptions.

4.4 Consider reporting obligations for politically exposed persons

The February 2012 FATF definition of Politically Exposed Persons (PEP), revised from 2003, is as follows:

- Foreign PEPs: individuals who are or have been entrusted with prominent public functions by a foreign country; for example, Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials
- Domestic PEPs: individuals who are or have been entrusted domestically with prominent public functions; for example, Heads of State or of government, senior politicians, senior government, judicial or military officials, senior executives of state owned corporations, important political party officials

U.S. law, specifically Section 312 of the USA Patriot Act and its implementing regulations, provides for enhanced due diligence for Senior Foreign Political Figures (SFPF), defined as: "a current or former senior official in the executive, legislative, administrative, military, or judicial branches of a 'foreign' government...a senior official of a major 'foreign' political party; and a senior executive of a 'foreign' government-owned commercial enterprise." The term “PEP” is not included in the U.S. regulations.

Below is a summary of relevant U.S. statutes and regulations that restrict employee ownership of certain financial interests, require employee reporting of certain financial interests, and restrict employee participation in certain official Government matters that would affect an employee’s personal or imputed financial interests or that might affect an employee’s personal or business relationships.

5 CFR § 3501.103(c) prohibits, with limited exceptions, all DOI employees, their spouses, and their minor children from acquiring or retaining any claim, permit, lease, small tract entries, or other rights that are granted by DOI in Federal lands. This prohibition does not restrict the recreational or other personal or non-commercial use of Federal lands by an employee, or the employee's spouse or minor children, on the same terms available to the general public.

5 CFR § 3501.103(b), with limited exceptions, prohibits the Secretary of the Interior and employees of the Office of the Secretary and other Departmental offices that report directly to a Secretarial officer who are in positions classified at GS-15 and above from acquiring or holding any direct or indirect financial interest in Federal lands or resources that the Department administers. This generally includes stock or

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bond interests in most oil, gas, and mining companies that hold leases on Federal lands to conduct their operations.

43 USC § 11, implemented by 43 CFR § 20.401, prohibits Bureau of Land Management (BLM) employees from voluntarily acquiring direct or indirect financial interests in Federal lands. Prohibited interests include stocks and bonds in oil, gas, geothermal, and mining companies that hold leases or other property rights on Federal lands, as well as companies that hold substantial rights-of-way on Federal lands. BLM employees may not be members or employees of a business that has interests in Federal lands. Additionally, BLM employees may not occupy or use Federal lands (other than for recreational or other personal and non-commercial use on the same terms as use of Federal lands is available to the general public), or take any benefits from Federal lands, based upon a contract, grant, lease, permit, easement, rental agreement, or application.

43 USC § 31(a), implemented by 43 CFR § 20.401(b), prohibits U.S. Geological Survey (USGS) employees from holding financial interests in Federal lands which DOI administers or controls. Prohibited interests include stocks and bonds in oil, gas, and other mining companies that hold significant leases on such lands. Additionally, 5 CFR § 3501.104 sets limits on investments in entities engaged in mining activities on private land in the U.S. The ability of USGS employees to own oil, gas, or other mineral leases or to receive royalties from those leases is extremely limited.

30 USC § 1211(f), implemented by 30 CFR Part 706 and 43 CFR § 20.402, prohibits all Office of Surface Mining Reclamation and Enforcement (OSMRE) employees and any other Federal employee who performs functions and duties under the Surface Mining Control and Reclamation Act of 1977 from having any direct or indirect financial interests in underground or surface coal mining operations. Prohibited financial interests under this law include interests in companies that are involved in developing, producing, preparing, or loading coal or reclaiming the areas upon which such activities occur. Additionally, 30 USC § 1267(g), as implemented by 30 CFR Part 705, provides that no employee of a State regulatory authority performing any function or duty under the Surface Mining Control and Reclamation Act of 1977 shall have a direct or indirect financial interest in any underground or surface coal mining operations.

The Ethics in Government Act of 1978, as amended (5 USC app. § 101), implemented by 5 CFR Part 2634, requires senior officials in the executive, legislative, and judicial branches to file public reports of their finances, as well as other interests outside the Government. Executive branch personnel file such reports using the OGE Forms 278e (previously the OGE Form 278) and 278-T. Unlike confidential financial statements that some mid-level employees file, the OGE Forms 278e and 278-T are available to the public. Ethics officials within each executive branch agency review, certify, and maintain these reports. Executive branch agencies also forward OGE Forms 278e and 278-T that Presidential appointees, which the Senate confirms, submit to the Office of Government Ethics (OGE) for additional review and certification. The primary purpose of the public disclosure program is to prevent conflicts of interest and to identify potential conflicts of interest of current and prospective employees. If a reviewing official identifies a potential conflict of interest, several remedies are available to avoid an actual or apparent violation of Federal ethics laws and regulations, which include recusal, reassignment, and divestiture of the financial interest(s). 28 USC § 535 requires executive branch agencies to report to the Attorney General any information, allegations, or complaints relating to violations of title 18 of the U.S. Code involving Government officers and employees.

5 USC app. § 107, implemented by Subpart I of 5 CFR Part 2634, also provides that certain executive branch employees who are not required to file a public financial disclosure report but whose duties involve the exercise of discretion in sensitive areas, such as contracting, procurement, administration of grants and licenses, and regulating or auditing non-Federal entities, are required to file confidential

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financial disclosure reports (OGE Form 450). This reporting system generally tracks the approach of the public financial disclosure system with some differences. For example, asset values and income amounts are not required to be reported, nor are interests in or income from bank accounts, money market mutual funds, U.S. obligations, and Government securities. The most notable difference between public and confidential reports, however, is that confidential financial disclosure reports are not available to the public.

30 USC § 1211(f), implemented by 30 CFR Part 706, requires that each OSMRE employee and any other Federal employee who performs any function or duty under the Surface Mining Control and Reclamation Act of 1977 must file a statement of employment and financial interests upon entrance to duty and annually thereafter. 30 USC § 1267(g), as implemented by 30 CFR Part 705, also requires State regulatory authority employees performing any duties or functions under the Act to file a statement of employment and financial interest upon entrance to duty and annually thereafter.

A Federal criminal conflict of interest statute, 18 USC § 208, prohibits executive branch employees from participating personally and substantially, in an official capacity, in any “particular matter” that would have a direct and predictable effect on the employee’s own financial interests or on the financial interests of,

- The employee’s spouse or minor child
- A general partner of a partnership in which the employee is a limited or general partner
- An organization in which the employee serves as an officer, director, trustee, general partner, or employee
- A person with whom the employee is negotiating for or has an arrangement concerning prospective employment

A “particular matter” is virtually any Government matter to which an employee might be assigned, including policy matters and matters involving specific parties, such as contracts or grants. (A few matters in Government, however, may be so broad in scope that the conflict of interest law does not require an employee’s disqualification even though the employee’s own or “imputed” financial interests are among those affected by the matter.) Disqualification (“recusal”) is mandatory in the circumstances specified in the statute. Moreover, disqualification is often the appropriate way to prevent a conflict of interest in the long term, unless an “exemption” applies or the circumstances warrant the use of other means of resolving the conflict of interest.

An executive branch-wide regulation, 5 CFR § 2635.502, recognizes that a reasonable person may believe that an employee’s impartiality can be influenced by interests other than the employee’s own or those that are imputed to the employee by the conflict of interest laws. Under 5 CFR § 2635.502, employees are required to consider whether their impartiality would be questioned whenever their involvement in a “particular matter involving specific parties” might affect certain personal or business relationships. The term “particular matter involving specific parties” refers to a subset of all “particular matters” and includes Government matters, such as a contract, grant, permit, license, or loan. If a particular matter involving specific parties is likely to have a direct and predictable effect on the financial interests of a member of the employee’s household, or if a person with whom the employee has a “covered relationship” is or represents a party to such matter, the employee must consider whether a reasonable person would question the employee’s impartiality in the matter. An employee has a covered relationship with,

- A person with whom the employee has or seeks a business, contractual, or other financial relationship

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- A person who is a member of the employee's household or is a relative with whom the employee has a close personal relationship
- A person for whom the employee's spouse, parent, or dependent child serves or seeks to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee
- Any person for whom the employee has, within the last year, served as an officer, director, trustee, general partner, agent, attorney, consultant, contractor, or employee
- Any organization (other than a political party) in which the employee is an active participant

If the employee concludes that participation in such a matter would cause a reasonable person to question the employee's impartiality, the employee should not work on the matter pending possible authorization from the appropriate agency official. Moreover, an employee should not work on any matter if the employee is concerned that circumstances other than those expressly described in the regulation would raise a question regarding the employee's impartiality. The employee should follow agency procedures so that the agency can determine whether participation is appropriate.

4.5 Consider the level of detail to be disclosed

The U.S. does not have one specific framework for disclosing beneficial ownership information.

Treasury's CDD rule requires the following information from legal entities when they open new accounts:

- Name and title of natural person opening account
- Name and address of legal entity for which the account is being opened
- For each individual, if any, who, directly or indirectly, through any contract, arrangement, understanding, relationship or otherwise, owns 25 percent or more of the equity interests of the legal entity listed above: name, date of birth, address (residential or business street address), for U.S. persons – Social security Number, for foreign persons – a passport number and country of issuance; this information is not publicly available
- For one individual with significant responsibility for managing the legal entity listed above, such as an executive officer or senior manager (for example, a Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Managing Member, General Partner, President, Vice President, or Treasurer) or any other individual who regularly performs similar functions: name/title, date of birth, address (residential or business street address), for U.S. persons – social security number, for foreign persons – a passport number and country of issuance

Legal entities with a federal tax obligation or opening an account at a financial institution subject to CDD rules are required to have an EIN. The vast number of legal entities in the U.S. already have a tax identification number, which would include both EINs, as well as social security numbers (SSNs). For tax year 2014, 27.6 million Schedule C's were filed, and 1.9 million Schedule F's were filed with individual tax returns reporting profit or loss from a sole proprietorship and farming. C corporations filed 2.2 million returns, S corporations filed 4.6 million returns, and partnerships filed 3.8 million returns. Individual filers, who must list their social security number on their tax return, may not be required to obtain an EIN. However, a sole proprietorship or self-employed farmer who establishes a qualified retirement plan, or is required to file excise, employment, alcohol, tobacco, or firearms returns, must have an employment identification number. A partnership, corporation, REMIC (real estate mortgage investment conduit), nonprofit organization (church, club, etc.), or farmers' cooperative must use an EIN for any tax-related purpose even if the entity does not have employees. For more information, see the [2015 Internal Revenue Service Data Book and IRS Statistics of Income \(SOI\), Individual Income Tax Returns Line Item Estimates, 2014](#). Safeguarding personally identifiable information in possession of the government and preventing its breach are essential to ensure that the government retains the American public's trust. This is a

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responsibility shared by officials accountable for administering operational and privacy and security programs, legal counsel, Agencies' Inspectors General and other law enforcement, and public and legislative affairs. It is also a function of applicable laws, such as the Federal Information Security Management Act of 2002 and the Privacy Act of 1974.

The Mineral Leasing Act of 1920 (MLA) requires that companies holding onshore Federal mineral leases meet citizenship and acreage requirements (30 USC 181 and 184). The regulations for different types of minerals implement citizenship and acreage disclosures in different ways. From most to least disclosing, the regulations are as follows: coal (43 CFR 3472.2-2 and 3422.3-4), solid minerals (43 C.F.R. 3502.27, .28, .29, and .34), oil and gas (43 CFR 3102.5-2 and .5-3), and geothermal (43 CFR 3202.11).

When disclosures are required, they must be made before the companies obtain a lease (around the time of the bidding process). For coal, 10% ownership in a partnership or association must be disclosed to ensure compliance with the MLA acreage and citizenship requirements (see 43 CFR 3472.2-2(b)). For leaseable solid minerals other than coal, 10% ownership in a partnership or association must also be disclosed (see 43 CFR 3502.27 - individuals must disclose when they own 10% or more of a partnership - and 43 CFR 3502.28 - partnerships themselves must disclose). For oil and gas, publicly traded partnerships and associations must certify that their constituent members who own more than 10% are in compliance with the MLA (see 43 CFR 3102.5-2).

Per BLM, execution and submission of an offer, competitive bid form, or request for approval of a transfer of record title or of operating rights (sublease) constitutes certification of compliance. All lease offers, competitive bid forms, or requests for approval of a transfer of record title or of operating rights (sublease), are made part of and tracked in the official case file maintained at the appropriate BLM State Office. For geothermal, there is no 10% threshold for either partnerships or corporations.

Regulations applicable to locatable minerals on Federal lands (such as gold or copper) provide that mining claims may be located only by U.S. citizens, legal immigrants who have filed for citizenship, business entities (which may include, but are not limited to, corporations and partnerships) organized under the laws of a State, and agents of persons or entities falling into any of these three categories (43 CFR 3830.3). Mining claims and the names of the locators must be recorded with BLM; however, there is no requirement to record the names of the underlying owners of a business entity (43 CFR 3833.11). Claimants must "record" their claims with BLM within 90 days after they locate their claim. The required information is extracted from a location notice that the claimant fills out and files with BLM. This information is filed in the BLM State Office of the State where the claim is located and is added to their automated data base, LR2000 (<http://www.blm.gov/lr2000/index.htm>). As of 9/30/2015, there were about 341,000 active mining claims.

43 USC 1337 requires that leases be issued to the highest responsible qualified bidder. The regulations governing each of the three resource types are (1) oil, gas, and sulfur; (2) other minerals; and (3) renewables – leased under the Outer Continental Shelf Leasing Act (OCSLA), and these regulations specify how bidders demonstrate that they are qualified. All three sets of regulations require that (1), if an individual, the person must be a citizen or national of the U.S. or an alien lawfully admitted for permanent residence; (2), if a corporation, the corporation must be organized under the laws of a State or territory; and, (3) if an association, the association's members must be qualified individuals or corporations (30 CFR 556.401; 30 CFR 581.4; and 30 CFR 585.106 respectively). For oil, gas, sulfur, and renewables, the regulations 30 CFR 556.402; 30 CFR 585.107 require the bidder to submit evidence showing that the bidder is qualified and meets other criteria (such as not having been debarred from doing business with the Department). For corporations and associations, there is no requirement to disclose the underlying owners (30 CFR 585.107).

4.6 Consider data collection procedures

As discussed above, under the CDD Rule, the Certification of Beneficial Owner(s) must be completed by the person opening a new account on behalf of a legal entity (or such person must otherwise certify the beneficial ownership information) with any of the following U.S. financial institutions: (1) a bank or credit union; (2) a broker or dealer in securities; (3) a mutual fund; (4) a futures commission merchant; or (5) an introducing broker in commodities.

Also, as discussed above, entities with filing obligations under the U.S. Federal tax law or opening an account at a financial institution subject to CDD requirements are required to have an EIN, which is issued by the IRS and requires companies to identify the responsible party. The IRS collects and keeps this information.

All of the information on the EIN application is subject to strict confidentiality provisions accorded to all U.S. Federal tax information under U.S. law (26 U.S.C. 6103) that prevents such information from being disclosed or used for any purpose other than U.S. Federal tax administration, except as permitted under specifically delineated statutory provisions under U.S. Federal internal revenue laws.

4.7 Consider how to develop a methodology for assuring the accuracy of the data

Verification under the CDD Rule⁸ is as follows:

- Under the CDD Rule, covered financial institutions are required to establish and maintain written procedures that are reasonably designed to identify and verify beneficial owners of legal entity customers. Customer due diligence procedures will enable the institution to:
 - Identify the beneficial owner(s) of each legal entity customer at the time when a new account is opened, unless the customer is otherwise excluded pursuant to paragraph (e) of this section, or the account is exempted pursuant to paragraph (h) of this section. A covered financial institution may accomplish this either by obtaining a certification in the form of a Certification of Beneficial Owner from the individual opening the account on behalf of the legal entity customer, or by obtaining from the individual the information required by the form by another means, provided that the individual certifies, to the best of the individual's knowledge, the accuracy of the information.
 - Verify to the covered financial institution the identity of each beneficial owner identified, according to risk-based procedures to the extent reasonable and practicable. At a minimum, these procedures must contain the elements required for verifying the identity of customers that are individuals and in the case of document verification, the financial institution may use photocopies or other reproductions. A covered financial institution may rely on the information supplied by the legal entity customer regarding the identity of its beneficial owner or owners, provided that it has no knowledge of facts that would reasonably call into question the reliability of such information. Additionally, in line with Customer Identification Program (CIP) rule requirements, financial institutions are expected to implement procedures for collecting and verifying beneficial ownership information “appropriate for [their] size and type of business.” Regulators regularly examine financial institutions for the quality of their CIP.

Penalties for Failure to Comply with Section 13d of the Securities and Exchange Act are as follows: as previously discussed, Section 13(d) requires any person or group that acquires more than five percent

⁸ See 31 C.F.R. § 1010.230(b) <https://www.federalregister.gov/documents/2016/05/11/2016-10567/customer-due-diligence-requirements-for-financial-institutions>

“beneficial ownership” of public company equity securities to disclose its position within 10 days of crossing the threshold. Failure to disclose the information requested by this schedule may result in civil or criminal action against the persons involved for violation of the federal securities laws and rules promulgated thereunder.

4.8 Consider data timeliness

Covered financial institutions have two years (May 11, 2018) to make changes to their account opening and anti-money laundering compliance systems to implement the CDD Rule. The CDD Rule does not impose a categorical requirement that financial institutions must update customer information, including beneficial ownership information, on a continuous or periodic basis. Rather, the updating requirement is event-driven and occurs as a result of normal monitoring as required by the Bank Secrecy Act. When a financial institution detects information (including a change in beneficial ownership information) about the customer in the course of its normal monitoring that is relevant to assessing or reevaluating the risk posed by the customer, it must update the customer information, including beneficial ownership information.

Exchange Action Section 13d

The SEC requires beneficial ownership reporting to be updated whenever there is a change in status.

4.9 Consider data accessibility

In the U.S., there is no authoritative source for beneficial ownership information of legal entities, as there is no requirement for U.S. States to collect this information at the time when a company is formed. However, as discussed above, any legal entity that has income or employees, or is otherwise required to file any documents with the IRS or opens an account at a financial institution, is required to have an EIN and requires companies to disclose the responsible party. The IRS collects and keeps this form, and they make it available to law enforcement upon receipt of a subpoena court order.

CDD Rule: Covered financial institutions are required to establish and maintain written procedures that are reasonably designed to identify and verify beneficial owners of legal entity customers.

SEC Rule: Under Section 13d, the beneficial ownership information is publicly available, as the primary purpose of this information is investor protection.

With respect to publicly traded and privately owned companies on Federal land, there were approximately 7,500 companies or private individuals that paid DOI \$7.8 billion in calendar year 2015. The Office of Natural Resources Revenue (ONRR) received \$7.5 billion from royalties, bonuses, rents, etc.; BLM received \$100 million from permit fees; and OSMRE received \$200 million from Abandoned Mine Land fees. Of the approximately 2,400 entities making payments to ONRR, initial research estimates are that about 10 percent are publicly traded companies (U.S. or Foreign stock exchanges) and account for about 80 percent of total payments.

4.10 Consider capacity building needs

A gap analysis of U.S. beneficial ownership practices and standards should be conducted, which compares these to international standards and the EITI Standard (as indicated in Section 2.5 (f)(ii) of the EITI Standard). This gap analysis will improve the MSG’s ability to assess further needs and to implement the roadmap.

4.11 Consider needs for technical and financial assistance

At this time, there are no technical and financial needs necessary in order to implement the roadmap.

4.12 Consider deadlines and responsibilities for roadmap activities

The USEITI MSG agreed to the formation of a Beneficial Ownership Roadmap Workgroup to oversee the development of the Roadmap. The Workgroup, which has members from each of the three sectors, began meeting in July 2016. The Workgroup will present a draft Roadmap for MSG consideration at the November 2016 MSG meeting.

Preliminary Proposed Timeline and Objectives:

- January 2017: USEITI Beneficial Ownership Roadmap Submitted to EITI International Board
- 2017: The MSG agrees to the working definition of Beneficial Owner
- 2017: Conduct a legal review of the legal barriers and enablers to public disclosure of beneficial ownership information under U.S. law
- 2017 USEITI Reporting Season: The MSG explores the possibility of requesting beneficial ownership information through the USEITI reporting template and collection of data for disclosure in the 2018 report (public companies may have the opportunity to indicate that beneficial ownership is done through periodic filings with the SEC, where appropriate, and, if it is determined, this disclosure is sufficient)
- 2017 and 2018: DOI and other relevant parties explore possibilities to request beneficial ownership information from companies engaged in bidding processes or otherwise operating in lands under its jurisdiction consistent with MLA, OCSLA, and/or other regulatory action within the power of the agency
- January 2018: Assuming that the preceding was successful, USEITI report with 2017 data including results of beneficial ownership query is released
- 2018 USEITI Reporting Season: Assuming that the preceding was successful, a request for beneficial ownership information is included in the USEITI reporting template, and results will be included in the 2019 USEITI report
- 2018: The USEITI MSG explores the possibility of regulatory/legislation action related to the “invest in” provision of the beneficial ownership requirement
- 2019 USEITI Reporting Season: Assuming that preceding efforts were successful, a request for beneficial ownership information is included in the USEITI reporting template, and results will be included in 2020 USEITI report
- 2019: Assuming that preceding efforts were successful, DOI and other relevant parties seek to request beneficial ownership information from companies engaged in bidding processes or otherwise operating in lands under its jurisdiction consistent with the MLA, the OCSLA, and/or other regulatory action within the power of the agency

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- 2019: The USEITI MSG explores the possibility of regulatory/legislation action related to the “invest in” provision of the beneficial ownership requirement
- 2020: Assuming that the preceding was successful, reporting by entities bidding for activities and operating on lands in the jurisdiction of the MLA, the OCSLA, and/or other regulatory action within the power of DOI commences
- 2020: Assuming that preceding efforts were successful, reporting related to the “invest in” provision commences

Data Portal Publication Plan

Dataset	Agency	Dates Range	Portal visualized or download only	Dataset provided by	FY18 Due Date (proposed)	FY17 Due Date	Delivery Shortened	Update Frequency
Disbursement Data	ONRR	FY 2017	download only	FM/AP	11/30/2017	11/30/2016	Same	TBD
Reported Federal Revenue ¹	ONRR	FY 2017	download only	IDM - DR	11/30/2017	3/31/2017	4 Months	TBD
Reported Indian Revenue ⁵	ONRR	FY 2017	download only	IDM - DR	11/30/2017	1/31/2017	2 Months	TBD
Reported Federal Production ²	ONRR	FY 2008-2017	both	IDM - DR	12/31/2017	7/31/2017	7 Months	TBD
Reported Indian Production ⁴	ONRR	FY 2017	download only	IDM - DR	12/31/2017	1/31/2017	7 Months	TBD
Reported Federal Revenue ¹	ONRR	CY 2017	both	IDM - DR	1/31/2018	3/31/2017	2 Months	TBD
Unilateral Disclosure Report - State Level ⁶	ONRR, BLM, OSM	CY 2017	TBD	IDM - DR, BLM, OSM	2/28/2018	3/10/2017	Same	TBD
Reported Federal Production ²	ONRR	CY 2008-2017	both	IDM - DR	3/31/2018	7/31/2017	4 Months	TBD

¹ **Reported Revenue:** Revenue reported to ONRR (by Accounting Year, Federal only) - Add most recent year

² **Reported Production:** Reported to ONRR (OGOR-A and P&R volumes allocated - Federal leases only; non-royalty-bearing volumes) - Update most recent 10 years

³ **Unilateral Disclosure Report (UDR):** ONRR, BLM, and OSM revenue streams by Parent Company - Feb 1st only ONRR. File will incorporate BLM & OSM data when received

⁴ **Reported Indian Production:** Reported to ONRR (OGOR-A and P&R volumes allocated - Indian leases only; non-royalty-bearing volumes) - Update most recent 10 years

⁵ **Reported Revenue:** Revenue reported to ONRR (by Accounting Year, Indian only) - Add most recent year

⁶ **UDR by State:** New dataset requirement added for FY2017

Revenue reported to ONRR (Accounting Year data - Federal only)

Production reported to ONRR (OGOR-A and P&R volumes allocated to Federal leases only; total production, not royalty-bearing volumes)

Unilateral Disclosure Report (UDR): ONRR, BLM, and OSM revenue streams by Parent Company

ONRR Disbursements

Only need to run newest year (2014/2015) for the 10-yr rolling window and add to previous dataset.

Need to rerun every year for 10-yr. rolling window.

Feb 1st only ONRR. File will incorporate BLM & OSM data when received

LWCF & NHPA datasets from Park Service

OFFICE OF NATURAL RESOURCES REVENUE
(ONRR)

PRE-DECISIONAL and DELIBERATIVE
Please do not distribute.

**U.S. EITI Withdrawal
Communication Plan**

(This announcement is internal and not intended as a press release)

As of October 16, 2017

BACKGROUND

The U.S. EITI (Extractive Industries Transparency Initiative) Federal Advisory Committee was established in August 2012. The Committee's purpose was to serve as the initial EITI Multi-stakeholder Group (MSG), and its duties included consideration and fulfillment of the tasks required to achieve candidate and compliant status in the EITI. The Committee's Charter was renewed in 2014, and again in 2016. The MSG each year developed and recommended to the Secretary a fully-costed work plan, containing measurable targets and a timetable for implementation, and an assessment of capacity constraints. Each year the MSG developed and recommended to the Secretary an Annual Activity Report documenting the decisions, accomplishments and progress in meeting the EITI International Standard. The MSG advised the Secretary on long-term oversight and other activities necessary to achieve EITI candidate and compliant status.

(b) (5) -Annual Reports:

The U.S. was the first country to publish its Annual Reports (b) (5) an open source, interactive web-based data portal: <https://useiti.doi.gov>. The portal is the new global standard in revenue governance transparency. On this portal, the Department of the Interior unilaterally discloses (b) (5) revenues by company, commodity, and revenue type, as well as production data across all commodities. (b) (5)

The Annual Reports provide clarity and transparency of the revenues generated by energy development on public lands and waters—a significant source of financial support for local communities, States, Tribes, and the Federal Government.

(b) (5)

Status (b) (5)

In May 2017, the DOI Office of the Inspector General released a final inspection report on the U.S. implementation of the EITI. The report included observations and no recommendations. Their review found the U.S. has met 8 of the 9 elements of the standard but will not be found in compliance with the EITI standard because U.S. companies are not required by law to disclose specific data, (particularly tax payments). (b) (5)

(b) (5)

The Department, through ONRR will continue to mainstream (publicly disclose) DOI revenue reporting in lieu of redundant company reporting and Independent Administrator reconciliation. The Department, as managed by ONRR, has robust audit and verification practices in place to demonstrate accountability for the revenues paid and received for our country's oil, gas, and mineral resources produced on Federal and Indian lands. The Department will continue to maintain the (b) (5) Data Portal.

COMMUNICATIONS OBJECTIVES

- The purpose of this Communication Plan is to inform the Department and U.S. EITI stakeholders that the U.S. EITI Multi-stakeholder group has fulfilled its responsibilities to the Secretary as documented in the Charter. The U.S. met 8 of the 9 elements of the EITI Standard, but will not be deemed in full compliance with the Standard, due to laws prohibiting certain data disclosures by companies in regard to taxes. As a result, the U.S. EITI plans to withdraw from the EITI Standard by November 6, 2017. The U.S. will continue to maintain the ~~U.S. EITI~~ Data Portal and implement [the principles of the EITI standard](#) within our domestic statutory and regulatory context.
- ***This Communication Plan is not intended as a public Press Release.***

KEY STAKEHOLDERS AND AUDIENCES

Internal Stakeholders:

- Executive Office of the President –
 - National Security Council
 - Office of Science and Technology Policy
- DOI Bureaus and Offices
 - OS, BLM, BOEM, BSEE, OSMRE, BIA, OST
- Other Federal Agencies
 - State, Treasury
- ONRR Employees
- ONRR's State and Tribal Royalty Audit Committee (STRAC)

External Stakeholders:

- Members of the U.S. EITI Multi-Stakeholder Group
- Congressional Officials (OCL)
- Securities and Exchange Commission (SEC)
- Civil Society Stakeholders
- ~~State Officials~~
- [EITI Implementing and Supporting Countries](#)

KEY MESSAGES/TALKING POINTS

U.S. Commitment and USEITI:

- The United States remains committed to the EITI and transparency and good governance of the extractive sectors.
- The United States has led the global initiative in providing revenue related data and information in an interactive, open-source data portal and by regularly engaging with other implementing countries to share our best practices.
- USEITI's second report demonstrated for the second year in a row the government's robust audit and assurance practices within the United States finding zero unresolved discrepancies, but also spotlighted the challenge posed by voluntary company reporting.
- The United States will mainstream transparency of non-tax revenue data through the work already underway within the Office of Natural Resource Revenue including on the data portal.
- The Department of the Interior Inspector General report issued on May 18 demonstrates the United States' "significant progress" towards implementation including meeting eight of the nine implementation indicators and partially meeting the requirement on company reporting.
- The United States has over the past decade been one of the strongest supporters of this initiative, providing over \$32 million to World Bank and mission-level assistance to EITI implementation, serving on the International Board, and this year considering for the first time a direct financial contribution to the Secretariat.
- However, the challenges facing United States implementation, as detailed in the International EITI Implementation Progress Report, are ~~very~~ significant. We have not taken those difficulties lightly. We have worked deliberately through a process to identify a path to feasibly implement the Standard. We have not found a solution that is feasible or practical. ~~We expect to announce a final decision on EITI implementation within the next two weeks.~~
- It is important to note that we willingly took on a very ambitious task and have not asked to change the rules or move the goalposts in order to accommodate the American system, which is highly transparent and efficient but which does not permit the kinds of disclosure required by the Standard.
- IF PRESSED ON DODD-FRANK 1504: Section 1504 of the Dodd-Frank Wall Street Reform Act remains U.S. law and the Securities and Exchange Commission is responsible for promulgating an implementing rule. The Administration supported the passage of House Joint Resolution 41, which vacated the previous rule, as a necessary rulemaking action to increase American competitiveness. We cannot comment on any pending or future legislative action regarding transparency in the extractive industries.
- The OIG reviewed the EITI and found that the U.S. met seven of the eight EITI requirements. The OIG FINAL Report can be found at:
https://www.doioig.gov/sites/doioig.gov/files/AIE_EITI_FinalInspectionReport_Public.pdf
- The OIG recognizes that the U.S. will move from being an implementing country to only a supporting country of EITI; and the U.S. intends to continue its efforts to disclose revenue and maintain the online data portal, thus institutionalizing EITI processes.

U.S. EITI QUESTIONS & ANSWERS

What is the EITI?

EITI is a voluntary, international standard for transparency in reporting revenues paid and received for natural resource extraction. The design of each EITI framework is country-specific, and is developed through a multi-year, consensus-based process by a multi-stakeholder group (MSG) composed of representatives from government, industry and civil society. The main product of the USEITI will be annual reports.

What is an EITI Report?

To comply with the EITI Standard, an EITI country must publish annual reports, produced by an Independent Administrator and approved by the MSG. The EITI Report documents the parallel reporting and reconciliation of revenues paid by the extractives industry to government and the revenues received and disbursed by the government. The EITI Report is also a compilation of publicly available contextual, legal, and current fiscal information about the extractives industries.

Where are the USEITI Reports and what did they actually disclose?

DOI published the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally discloses 2013, 2014, 2015, 2016 revenues by company, commodity, and revenue type as well as production data across all commodities. The Annual Reports provide clarity and transparency of the revenues generated by energy development on public lands and waters—a significant source of financial support for local communities, States, Tribes, and the Federal Government.

Will the Department of the Interior continue to issue USEITI reports?

The Department of the Interior will continue to disclose revenues by company, commodity, and revenue type as well as production data across all commodities on the data portal. The content on the Data Portal will reflect the Office of Natural Resources Revenue's activities for 2017 undertaken as a part of the United States' involvement in the Extractive Industries Transparency Initiative. Unlike previous years, the content has not been approved by the full USEITI Multi-Stakeholder Group., given the MSG did not meet following the February session. However, the content provided here and included in the online report has been informed by MSG feedback and the MSG had an opportunity to review all additional content.

What is a Data Portal?

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The Secretary of the Interior established the USEITI Federal Advisory Committee in August 2012. The Committee's purpose was to serve as the initial EITI Multistakeholder Group (MSG)

and its duties included consideration and fulfillment of the tasks required to achieve candidate and compliant status in the EITI. The Multistakeholder Group or MSG is comprised of representatives from government, industry and civil society. The Committee's Charter was renewed in 2014, and again in 2016. The MSG met 20 times in a public meeting between 2012 and February 2017.

Why are you terminating the USEITI Multistakeholder Group?

The Federal Advisory Committee serves at the Secretary of the Interior's discretion. The MSG each year developed and recommended to the Secretary a fully-costed work plan, containing measurable targets and a timetable for implementation, and an assessment of capacity constraints. Each year the MSG developed and recommended to the Secretary an Annual Activity Report documenting the decisions and accomplishment, and progress in meeting the EITI Standard. The MSG advised the Secretary on long-term oversight and other activities necessary to achieve EITI candidate and compliant status. The MSG oversaw publishing the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). Given the current challenges to fully implementing the EITI Standard and a thoughtful review of the many accomplishments of the MSG, the Secretary determined the MSG had accomplished its work.

Why are you withdrawing from the EITI Standard?

The U.S. has met 8 of the 9 elements of the standard. USEITI has been implementing within U.S. statutory mandates and in a voluntary reporting system. Given the ongoing uncertainty about corporate income tax reporting as part of USEITI, as well as the recent decision by the USEITI MSG to rely on the government's existing audit and assurance processes, USEITI would be deviating in two significant respects from the EITI Standard. Therefore the decision was made that the U.S. would no longer formally implement the Standard. However, the Department, as managed by ONRR, has robust audit and assurances practices in place to demonstrate accountability for the revenues paid and received for our country's oil, gas, and mineral resources. The Department, through ONRR will continue to mainstream (publicly disclose) DOI revenue reporting in lieu of redundant company reporting and Independent Administrator reconciliation.

Explain what the challenges were for the U.S. to implement the EITI Standard

Domestic implementation of EITI is subject to existing laws and regulations. For example, the Trade Secrets Act and the Federal Oil and Gas Royalty Management Act (FOGRMA) of 1982, prohibit the Federal government from releasing company pricing information and Federal employees are subject to criminal penalties if they violate these laws. Another example is Section 6103 of the Internal Revenue Code (IRC) provides that tax returns and tax return information are confidential and prohibited from disclosure, unless an exception identified in the IRC is applicable. The IRC imposes civil and criminal penalties for violations of the disclosure prohibitions.

What does it mean to mainstream revenue data?

The EITI governing Board in its 2016 revised Standard included allowing for two possible procedures for EITI disclosures: (1) the "conventional" agreed upon procedure for EITI Reports, which is already in use (company and government parallel disclosure to an Independent Administrator for reconciliation); and (2) the agreed upon procedure for mainstreamed disclosures. The mainstreaming transparency option enables countries to refer directly to existing public information about the extractive sector where available, comprehensive, reliable,

and consistent with the requirements of the EITI Standard. We welcome the idea of mainstreamed EITI disclosures in lieu of company reporting and Independent Administrator reconciliation.

What domestic benefits of adopting the EITI Standard are you giving up?

The Department of the Interior will continue to highlight industry's financial contributions to the U.S. Government and the national and state level distribution of those resources, including the revenues generated by royalties, rents, bonuses and taxes. The Department will continue to provide enhanced and user friendly access to reliable information that can be used to hold the government and [industry] to account. Increasing the public's awareness and understanding of how extractive revenues are collected and disbursed enhances our accountability and facilitates the full and fair return to the American people for these resources.

What were the international benefits to the U.S. of adopting EITI?

The United States will continue to be one of seventeen supporting countries of the EITI. The United States remains a strong supporter of good governance and transparency, including the principles of transparency in the extractive sector represented by EITI. EITI is an important tool to promote transparency, increase competitiveness and combat corruption globally. We have taken a leading role in EITI since its founding in 2003, and we will continue to support the international EITI initiative and country level implementation. Attempting to implement the EITI Standard in the United States was a proactive step in the mainstreaming of EITI principles. It demonstrated that a strong commitment to transparency and accountability principles applies equally to developed and developing countries, providing an example for other OECD economies. Despite the infeasibility of implementing the Standard domestically, the United States remains committed to these same transparency and accountability principles.

How much does the government gain in revenue from the extractive industries?

The U.S. is a major developer of natural resources. The Department of Interior collects on average approximately \$10 to \$12 billion in annual revenues from the development of oil, gas and minerals on Federal lands and offshore in the Outer Continental Shelf. The bulk of these revenues are disbursed to the U.S. Treasury, with smaller portions distributed to five Federal agencies, more than 30 states, 41 American Indian tribes, and approximately 34,000 individual Indian mineral owners. In addition, the U.S. receives federal taxes related to resource extraction.

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FINAL excluding MATRIX to OCL	Anita Gonzales, Legislative Liaison for ONRR	Joseph Nevills, OCL Leg. Summary and Audrey Haskens, OCL Report	Email by 10/20/17
FINAL excluding MATRIX to STRAC	Bruce Rumburg, Agreements Officer's Representative	STRAC	Email by 10/20/2017

OFFICE OF NATURAL RESOURCES REVENUE
(ONRR)

PRE-DECISIONAL and DELIBERATIVE
Please do not distribute.

**U.S. EITI Withdrawal
Communication Plan**

(This announcement is internal and not intended as a press release)

As of October 16, 2017

BACKGROUND

The U.S. EITI (Extractive Industries Transparency Initiative) Federal Advisory Committee was established in August 2012. The Committee's purpose was to serve as the initial EITI Multi-stakeholder Group (MSG), and its duties included consideration and fulfillment of the tasks required to achieve candidate and compliant status in the EITI. The Committee's Charter was renewed in 2014, and again in 2016. The MSG each year developed and recommended to the Secretary a fully-costed work plan, containing measurable targets and a timetable for implementation, and an assessment of capacity constraints. Each year the MSG developed and recommended to the Secretary an Annual Activity Report documenting the decisions, accomplishments and progress in meeting the EITI International Standard. The MSG advised the Secretary on long-term oversight and other activities necessary to achieve EITI candidate and compliant status.

Annual Reports:

The U.S. was the first country to publish its Annual Reports as an open source, interactive web-based data portal: <https://useiti.doi.gov>. The portal is the new global standard in revenue governance transparency. On this portal, the Department of the Interior unilaterally discloses revenues by company, commodity, and revenue type, as well as production data across all commodities. (b) (5)

The Annual Reports provide clarity and transparency of the revenues generated by energy development on public lands and waters—a significant source of financial support for local communities, States, Tribes, and the Federal Government.

Status:

In May 2017, the DOI Office of the Inspector General released a final inspection report on the U.S. implementation of the EITI. The report included observations and no recommendations. Their review found the U.S. has met 8 of the 9 elements of the standard but will not be found in compliance with the EITI standard because U.S. companies are not required by law to disclose specific data, (particularly tax payments). (b) (5)

The Department, through ONRR will continue to mainstream (publicly disclose) DOI revenue reporting in lieu of redundant company reporting and Independent Administrator reconciliation. The Department, as managed by ONRR, has robust audit and verification practices in place to demonstrate accountability for the revenues paid and received for our country's oil, gas, and mineral resources produced on Federal and Indian lands. The Department will continue to maintain the Data Portal.

COMMUNICATIONS OBJECTIVES

- The purpose of this Communication Plan is to inform the Department and U.S. EITI stakeholders that the U.S. EITI Multi-stakeholder group has fulfilled its responsibilities to the Secretary as documented in the Charter. If the Department should decide they want to do a press release, they have all the information they need. The Department should be aware that certain stakeholders may share information with the press.
- The U.S. met 8 of the 9 elements of the EITI Standard, but will not be deemed in full compliance with the Standard, due to laws prohibiting certain data disclosures by companies in regard to taxes. As a result, the U.S. EITI plans to withdraw from the EITI Standard by November 6, 2017. The U.S. will continue to maintain the Data Portal and implement the principles of the EITI standard within our domestic statutory and regulatory context.
- The ~~final 2017~~^{next} US EITI multi-stakeholder group meeting, ~~was~~ scheduled for November 15, 16, ~~will~~^{and is now be} cancelled.
- ***This Communication Plan is not intended as a public Press Release, rather to assist the Secretary's Office of Communications in their decision regarding a media release and response to media inquiries.***

KEY STAKEHOLDERS AND AUDIENCES

Internal Stakeholders:

- Executive Office of the President –
 - National Security Council
 - Office of Science and Technology Policy
 - Office of Management and Budget
- DOI Bureaus and Offices
 - OS, BLM, BOEM, BSEE, OSMRE, BIA, OST
- Other Federal Agencies
 - State, Treasury
- ONRR Employees
- ONRR's State and Tribal Royalty Audit Committee (STRAC)

External Stakeholders:

- Members of the U.S. EITI Multi-Stakeholder Group
- Congressional Officials (OCL)
- Securities and Exchange Commission (SEC)
- Civil Society Stakeholders
- State Officials
- EITI Implementing and Supporting Countries

KEY MESSAGES/TALKING POINTS

U.S. Commitment and USEITI:

- The United States remains committed to the EITI and transparency and good governance of the extractive sectors.
- The United States has led the global initiative in providing revenue related data and information in an interactive, open-source data portal and by regularly engaging with other implementing countries to share our best practices.
- USEITI's second report demonstrated for the second year in a row the government's robust audit and assurance practices within the United States finding zero unresolved discrepancies, but also spotlighted the challenge posed by voluntary company reporting.
- The United States will mainstream transparency of non-tax revenue data through the work already underway within the Office of Natural Resource Revenue including on the data portal.
- The Department of the Interior Inspector General report issued on May 18 demonstrates the United States' "significant progress" towards implementation including meeting eight of the nine implementation indicators and partially meeting the requirement on company reporting.
- The United States has over the past decade been one of the strongest supporters of this initiative, providing over \$32 million to World Bank and mission-level assistance to EITI implementation, serving on the International Board, and this year considering for the first time a direct financial contribution to the Secretariat.
- However, the challenges facing United States implementation, as detailed in the International EITI Implementation Progress Report, are significant. We have not taken those difficulties lightly. We have worked deliberately through a process to identify a path to feasibly implement the Standard. We have not found a solution that is feasible or practical.
- It is important to note that we willingly took on a very ambitious task and have not asked to change the rules or move the goalposts in order to accommodate the American system, which is highly transparent and efficient but which does not permit the kinds of disclosure required by the Standard.
- IF PRESSED ON DODD-FRANK 1504: Section 1504 of the Dodd-Frank Wall Street Reform Act remains U.S. law and the Securities and Exchange Commission is responsible for promulgating an implementing rule. The Administration supported the passage of House Joint Resolution 41, which vacated the previous rule, as a necessary rulemaking action to increase American competitiveness. We cannot comment on any pending or future legislative action regarding transparency in the extractive industries.
- The OIG reviewed the EITI and found that the U.S. met seven of the eight EITI requirements. The OIG FINAL Report can be found at:
https://www.doioig.gov/sites/doioig.gov/files/AIE_EITI_FinalInspectionReport_Public.pdf
- The OIG recognizes that the U.S. will move from being an implementing country to only a supporting country of EITI; and the U.S. intends to continue its efforts to disclose revenue and maintain the online data portal, thus institutionalizing EITI processes.

U.S. EITI QUESTIONS & ANSWERS

What is the EITI?

EITI is a voluntary, international standard for transparency in reporting revenues paid and received for natural resource extraction. The design of each EITI framework is country-specific, and is developed through a multi-year, consensus-based process by a multi-stakeholder group (MSG) composed of representatives from government, industry and civil society. The main product of the USEITI will be annual reports.

What is an EITI Report?

To comply with the EITI Standard, an EITI country must publish annual reports, produced by an Independent Administrator and approved by the MSG. The EITI Report documents the parallel reporting and reconciliation of revenues paid by the extractives industry to government and the revenues received and disbursed by the government. The EITI Report is also a compilation of publicly available contextual, legal, and current fiscal information about the extractives industries.

Where are the USEITI Reports and what did they actually disclose?

DOI published the 2015 and 2016 USEITI Annual Reports on an open source, open code interactive web-based data portal (<https://useiti.doi.gov>). On this portal, the Department of the Interior unilaterally discloses 2013, 2014, 2015, 2016 revenues by company, commodity, and revenue type as well as production data across all commodities. The Annual Reports provide clarity and transparency of the revenues generated by energy development on public lands and waters—a significant source of financial support for local communities, States, Tribes, and the Federal Government.

Will the Department of the Interior continue to issue USEITI reports?

The Department of the Interior will continue to disclose revenues by company, commodity, and revenue type as well as production data across all commodities on the data portal. The content on the Data Portal will reflect the Office of Natural Resources Revenue's activities for 2017 undertaken as a part of the United States' involvement in the Extractive Industries Transparency Initiative. Unlike previous years, the content has not been approved by the full USEITI Multi-Stakeholder Group., given the MSG did not meet following the February session. However, the content provided here and included in the online report has been informed by MSG feedback and the MSG had an opportunity to review all additional content.

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FINAL excluding MATRIX to OCL	Anita Gonzales, Legislative Liaison for ONRR	Joseph Nevills, OCL Leg. Summary and Audrey Haskens, OCL Report	Email by 10/20/17
Federal Register Notice <u>to cancel November USEITI meeting</u>	<u>Kim Oliver, Program Analyst, ONRR with</u> Exec Sec. Secretary's Office, (because it is a FACA)	Exec Secretary's Office	Published 11/07/2017
FINAL excluding MATRIX to STRAC	Bruce Rumburg, Agreements Officer's Representative	STRAC	AOR shares letter to International Chair by Email to STRAC after (11/03 <u>2</u> /17).

**UNITED STATES EXTRACTIVE INDUSTRIES TRANSPARENCY INITIATIVE
MULTI-STAKEHOLDER GROUP ADVISORY COMMITTEE MEETING
FEBRUARY 1, 2017**

SUMMARY OF PROCEEDINGS

**U.S. DEPARTMENT OF THE INTERIOR
PREPARED: MARCH 2017**

I. Introduction

The U.S. Department of the Interior (DOI), with Judy Wilson presiding as acting Designated Federal Official (DFO), convened the nineteenth meeting of the U.S. Extractive Industries Transparency Initiative (USEITI) Multi-Stakeholder Group Advisory Committee (MSG) on February 1, 2017, in Washington, DC.

The purpose of the meeting was to receive updates from the Independent Administrator on various aspects of developing the online report and executive summary for the 2017 USEITI Report and how to move forward with these; receive updates on the work of the Implementation, Communications, and State and Tribal Opt-in Subcommittees; and discuss the prospects for proceeding with mainstreaming of USEITI reporting into US government processes and the inclusion of project-level reporting in USEITI Reports. The MSG opted not to cover all of these items after the Co-Chairs agreed to accelerate the MSG's work and adjourn the meeting after one day rather than hold a two-day meeting, as originally planned. Please see the "Adjustment of Meeting Schedule and Agenda" section on page 6 for additional information.

Please note that, throughout this meeting summary, comments made by presenters, Independent Administrator team members, other non-MSG members, and those directly pertaining to an MSG decision are attributed to specific speakers. Other comments are provided without attribution in order to foster open discussion among MSG members excepting final deliberations prior to specific MSG decisions.

Interested parties are asked to contact USEITI at useiti@ios.doi.gov or 202-208-0272 with any questions, comments, or concerns regarding the content of this meeting summary.

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II. Summary of Endorsements, Decisions, Approvals, and Action Items

A. Endorsements

- No endorsements were made by the MSG at the February 2017 MSG meeting.

B. Decisions

- The MSG decided to move forward with the Implementing Subcommittee's recommendation to forego independent reconciliation of revenues by the Independent Administrator for the 2017 USEITI Report. *(see page 9)*
- The MSG decided to use and move forward with the proposed reporting template for 2017. *(see page 10)*
- The MSG decided to have the USEITI Secretariat work to add material for the 2017 USEITI Report about US audit and assurance procedures and for the USEITI Secretariat to make a "good faith effort" to include information about "the life of a lease" in the 2017 USEITI Report. *(see page 13)*

C. Approvals

- The MSG approved the November 2016 MSG meeting summary. *(see page 5)*
- The MSG approved the motion to have the Implementation Committee decide on which dataset source (Bureau of Labor Statistics or Census Bureau) to use to provide information for employment by commodity. *(see page 12)*
- The MSG approved the motion to have the Implementation Committee decide on which two additional visualizations (between additional metals, forestry, and renewable energy) to include in the 2017 USEITI Report, along with a visualization about employment by commodity *(see page 13)*.

D. Confirmations

- No confirmations were made by the MSG at the February 2017 MSG meeting.

E. Action Items

- **Co-Chairs:**
 - Review and distribute meeting summary from the February 2017 MSG meeting to MSG members.
 - Develop agenda for the June 2017 MSG meeting.
- **Implementation Subcommittee**

- Decide on which dataset source (Bureau of Labor Statistics or Census Bureau) to use to provide information for employment by commodity. *(see page 12)*
- Decide on which two additional visualizations (between additional metals, forestry, and renewable energy) to include in the 2017 USEITI Report, along with a visualization about employment by commodity *(see page 13)*
- **USEITI Secretariat:**
 - Work to create supplemental material for the 2017 USEITI Report about US audit and assurance procedures. *(see page 13)*
 - Make a “good faith effort” to include information about “the life of a lease” in the 2017 USEITI Report. *(see page 13)*
 - MSG decisions will be recorded in an updated MSG Decision Matrix by the Secretariat. *(see page 15)*
- **Independent Administrator (Deloitte)**
 - Integrate the beneficial ownership reporting template into the main reporting form. *(see page 10)*
 - Flesh out the contours of the following topics: additional metals, forestry, and renewable energy, and present these to the Implementation Subcommittee for decision-making regarding which visualizations to include in the 2017 USEITI Report. *(see page 13)*
- **Acting Designated Federal Office**
 - Review the MSG terms of reference and consider how to ensure adherence to those in future MSG meetings. *(see page 15)*
- **USEITI Process Facilitator (Consensus Building Institute)**
 - Create a meeting summary for the February 2017 MSG meeting.

III. Presentations and Key Discussions

Judy Wilson, U.S. Department of the Interior (DOI), presiding as acting Designated Federal Official for the USEITI MSG, opened the meeting and welcomed participants. All individuals in attendance introduced themselves. A full attendance list can be found in Section VI – Meeting Participants, page 16.

A. Opening Remarks

Ms. Wilson provided opening remarks by noting that the transition to the new presidential administration had begun. Congressional consideration of the nomination for the new Secretary of the Interior, Ryan Zinke, is underway. She also noted that, although there has been discussion and media coverage about possible Congressional action on regulations under Section 1504 of the Dodd-Frank Act, at the time of the MSG meeting, the regulations are still in effect.

Danielle Brian, Project on Government Oversight and civil society organization (CSO) sector co-chair, also read out an opening statement on behalf of the CSO sector. In that

statement, Ms. Brian called on the industry and government sector representatives on the MSG to speak out publicly in favor of the Section 1504 rule in order to help persuade Congress to retain the rule. The CSO statement also formally requested that the DFO remove the American Petroleum Institute from holding a seat on the USEITI MSG. The full text of Ms. Brian's comments is provided in Appendix A, available on page 19 of this meeting summary.

B. USEITI MSG Business

The MSG conducted the following items of business during the course of the MSG meeting.

1. Terminology and USEITI December 2015 Meeting Summary

Judy Wilson, USEITI Secretariat, reminded meeting participants that the MSG has agreed to employ three terms to differentiate between different types of actions that the MSG takes:

- "Decisions" will indicate significant actions and agreements by the MSG key to meeting EITI international standards.
- "Approvals" will indicate lower-level decisions by the MSG, such as approving work plans, meeting summaries, process changes or additions, etc.
- "Confirmations" will confirm decisions that the MSG has previously made.

The MSG approved the meeting summary of the November 2016 MSG meeting, with some corrections provided by MSG members. A copy of the final, approved meeting summary is available online at: https://www.doi.gov/sites/doi.gov/files/uploads/useiti_msg_-_nov_2016_mtg_summary_0.pdf

- **Approval: The MSG approved the meeting summary from the November 2016 USEITI MSG meeting.**

2. Preview of March 2017 International EITI Board Meeting

Greg Gould, government sector co-chair, explained that the March 8-9 meeting of the EITI Board would cover a number of topics important for USEITI, including mainstreaming, the beneficial ownership roadmap that USEITI submitted in December 2016, and an open data policy for EITI. Mr. Gould invited Micah Watson of Department of State to provide additional comments about the upcoming EITI board meeting.

A MSG member from the civil society sector inquired of Mr. Gould about how mainstreaming would work without regulations in place under Section 1504 of the Dodd-Frank Act, by which companies would be required to disclose their corporate income tax payments.

Micah Watson, US Department of State, introduced himself and noted that he works under Ambassador Mary Warlick, a member of the EITI International Board. He explained that the EITI Board has spent much of the past year focusing on internal

governance and finances and that it would shift its focus to validation of EITI countries in 2017. Almost half of the implementing countries will be undergoing validation during the next 18 months. He added that a number of new countries would also be submitting their applications to join EITI during coming months.

A MSG member from the civil society sector inquired of Mr. Watson about the implications of the resource curse for US foreign policy as well as the reaction in other countries when the United States opts not to follow international norms. In response, Mr. Watson offered that the State Department does believe in the efficacy of EITI and other transparency initiatives in combating the resource curse in many countries. He also noted that there was broad support internationally for the regulations promulgated under Section 1504 and that there appears to be much concern globally about the direction that the US may be taking in the possible rescission of those regulations.

3. Adjustment of Meeting Schedule and Agenda

During the lunch break on February 1, the Co-Chairs and acting DFO conferred and agreed that the deliberations in Congress around the Section 1504 regulations and the prospect that these would be disapproved had introduced significant uncertainty and upheaval into the MSG meeting. Following lunch, Ms. Wilson, the acting DFO, announced that the remainder of the meeting on February 1 would focus on critical-path decisions that are required by the MSG for production of the 2017 USEITI Report. Additional agenda items, such as updates from the Communications and State and Tribal Opt-in Subcommittees, would be postponed and the second day of the MSG meeting would not be needed given the truncated agenda per unanimous decision of the Co-Chairs.

In response to a request from MSG members representing the CSO sector that MSG members from their sector who had called into the meeting be allowed to participate in MSG discussions, Ms. Wilson, acting DFO, clarified that the Federal Advisory Committee Act (FACA) requires that MSG members be physically present at the MSG meeting in order to be considered MSG members. Members of the MSG who call into the meeting over the phone are considered members of the public.

Ms. Wilson also announced that public comments would be accepted in writing in lieu of holding an open, verbal public comment period, as is permissible under the Federal Advisory Committee Act. She requested that commenters send their comments to the following email address: useiti@ios.doi.gov. The reason behind this decision was the agenda for the two day meeting was compressed to one day and because MSG discussion and decision making in the second half of the day would occur after the previously scheduled mid-day public comment period.

C. MSG Discussions Regarding Congressional Recission of Regulations under Section 1504 of the Dodd-Frank Act

MSG members discussed a variety of issues related to the Section 1504 regulations, their role in USEITI, and the implications for USEITI if Congress disapproves the regulations.

1. Relevance of Section 1504 Regulations for USEITI

CSO representatives stated that the rules promulgated by the Securities and Exchange Commission (SEC) under Section 1504 are fundamental to the future of the USEITI. Without this rule, there will be no possibility of corporate tax reporting and therefore no possibility for validation under the international EITI Standard. The MSG needs to address this issue head on.

An industry sector representative stated that the industry sector has worked very hard to help implement USEITI, resulting in the creation of a very useful website [the USEITI report]. The MSG's role is to provide information to the American public, not to litigate policy questions over which its members have no control. If the CSO sector feels that there is no value to USEITI beyond corporate tax reporting, then the MSG should discuss that.

Members of the CSO sector agreed that the USEITI website is an advancement and success, and that USEITI has important work together, but that USEITI will be far short of meeting the purpose of EITI, which is revenue transparency, without inclusion of information about corporate income tax payments and project-level reporting.

2. The Role of USEITI MSG Members in Decision-Making Around Section 1504 Regulations

CSO representatives suggested that there are serious questions and concerns about whether members of the industry sector are participating in USEITI in good faith around this particular issue of tax reporting. CSO members asked that members of the industry sector on the MSG need to speak up about whether they support Congressional efforts to repeal rulemaking under Section 1504. CSO members noted that they are frustrated that there are members of the industry sector who have been taking credit for corporate social responsibility and transparency efforts by virtue of their participation in USEITI while, in the CSO's view, behind the scenes they have been lobbying and litigating to undermine the Section 1504 rules.

Both industry and government sector representative voiced that USEITI MSG members could not influence Congressional decision-making around the Section 1504 regulations and that the USEITI MSG should focus on implementing USEITI. CSO representatives pushed back against this assertion. The CSO representatives noted that many of the largest oil and gas companies in the US and the world have representatives on the MSG and that these companies hold significant influence in Congress.

A member of the industry sector noted that his company has supported the implementation of the Dodd-Frank Act, including Section 1504, but that the current regulations under that section are overly burdensome. This member's company supports fixing those regulations to make them easier for companies to comply with. Additional representatives of the industry sector also articulated support for transparency as long as it does not place undue burden on companies.

Civil society members urged their colleagues in the industry and government sectors to join them in speaking in a united voice, as the USEITI MSG, in support of retaining the current Section 1504 rules. The united voice of the MSG could persuade Congress to retain the rules. The Government sector reminded members that the executive branch and its functions, like FACAs, are prohibited from lobbying Congress.

Industry sector representatives articulated their understanding that the Congressional Review Act (CRA, through which Congress is considering rescinding the Section 1504 regulations) would not eliminate the Dodd-Frank Act, including Section 1504. Rather, the SEC would have to come up with new regulations under Section 1504. An industry sector representative suggested that it would have been beneficial if the SEC had taken industry comments and suggestions more fully into account during the rule-making process.

In response to the industry sector representatives, a civil society representative explained that the CRA prohibits the introduction of another rule that is "substantially similar" to the disapproved regulation. She also noted that President Trump has released an executive order mandating that each agency eliminate two regulations for each new regulation they put in place. She suggested that, as a result, there will not be meaningful regulations enacted under Section 1504 if the CRA action is signed by the President.

3. Implications for USEITI of Congressional Disapproval of Section 1504 Regulations

CSO representatives requested that the government sector speak about whether the government sees a future for USEITI without the Section 1504 rules.

A government sector representative explained that the US Department of the Interior (DOI) works with other federal departments and agencies to implement laws and regulations that are in place. At the present moment, the rules under Section 1504 are still in place. The speaker also noted that USEITI began its efforts well before the Section 1504 regulations were put in place and that there would continue to be policy and regulatory uncertainty as part of the larger context in which USEITI exists. As such, USEITI's role is to continue to try to enhance transparency, regardless of the larger policy context.

Government sector representatives noted that there have been significant changes in the EITI Standard in the years since the United States decided to join EITI and that the EITI Board continues to examine whether the requirements are reasonable and feasible for countries to comply with. The EITI International Board increasingly seems to be moving towards a model of “meaningful improvement,” rather than a strict pass-fail metric, for countries seeking validation of their EITI reports. Considering this, USEITI has an excellent case for “mainstreaming” of its reporting under the EITI framework and also has good prospects for validation.

A CSO representative responded that USEITI will not have a path to “meaningful improvement” on corporate income tax reporting without the Section 1504 regulations.

D. Implementation Subcommittee Updates and Discussion

The MSG considered a proposed approach for company revenue reporting and reconciliation for the 2017 report brought forward by the Implementation Subcommittee.

1. Reporting and Reconciliation of Company Revenues

Judy Wilson and Bob Kronebusch of ONRR presented information about the work of the Reporting Improvement Workgroup. Ms. Wilson focused her comments on a day-long workshop that the workgroup held on January 11 in Denver, Colorado. Ms. Wilson reviewed the workshop participants, objectives, and agenda, and presented the workgroup’s recommendations to the MSG about how to proceed with company revenue reporting and reconciliation in 2017 and beyond. Additional detail about the workshop is available at:

https://www.doi.gov/sites/doi.gov/files/uploads/improving_reporting_workshop_1_11_2017_final.pdf.

Additionally, Bob Kronebusch, ONRR, provided an update on the workgroup’s analysis of the gaps between existing controls and verification of extractives industries revenue payments to the US federal government and EITI requirements for reconciliation. Mr. Kronebusch reviewed the approach taken by the workgroup, the gaps identified, and the ways in which federal and company audit and assurance standards surpass EITI standards. Additional detail about the workgroup’s work is available at:

https://www.doi.gov/sites/doi.gov/files/uploads/rptg_imp_wg_presentation_final_1-30-17.pdf.

Following the presentations, Dan Dudis, Public Citizen, thanked Ms. Wilson and expressed support for the workgroup’s proposed approach of conducting reconciliation via “mainstreaming of EITI reporting” rather than performing an independent reconciliation of revenues for USEITI by the Independent Administrator as this would avoid duplication of work. Mike Matthews, State of Wyoming, noted that states and

tribes also conduct compliance reviews in addition to the federal and company audits and reviews surveyed by the workgroup.

In response to a question from Aaron Padilla, American Petroleum Institute, Mr. Kronebusch suggested that the gaps identified by the workgroup are likely a combination of procedural gaps and more substantive gaps in the controls.

David Romig, Freeport-McMoRan Oil & Gas, and Paul Bugala, George Washington University, noted that Section 4.9 of the EITI Standard specifies that auditing and reconciliation must either be performed by the independent administrator or the independent administrator must be convinced that the process is sufficiently robust. They suggested that the trustworthiness of the auditing processes undertaken by governments and companies will need to be demonstrated to the EITI Board for these to meet the EITI Standard.

Mr. Padilla suggested that USEITI also compare US auditing processes to emerging standards from the International Monetary Fund (IMF) and other similar standards.

The MSG decided to move forward with the Reporting Improvement Workgroup's and Implementation Subcommittee's recommendation to forego independent reconciliation of revenues by the Independent Administrator for the 2017 USEITI Report.

- **Decisions: The MSG decided to forego independent reconciliation of revenues by the Independent Administrator for the 2017 USEITI Report to avoid duplication and increase efficiency.**

E. Independent Administrator's Updates

Members of the Independent Administrator (IA) team from Deloitte provided updates on the reporting template for the 2017 USEITI Report and on the topics that could be included as visualizations in the 2017 report.

These updates and accompanying MSG discussions are summarized below.

1. Reporting Template for 2017 USEITI Report

Alex Klepacz, Independent Administrator team member from Deloitte, presented a proposed reporting template for company revenue reporting for the 2017 USEITI Report. The proposed reporting template is available at:

https://www.doi.gov/sites/doi.gov/files/uploads/useiti_reporting_template_-_20170117_-_draft.xlsx and draft reporting guidelines are available at: https://www.doi.gov/sites/doi.gov/files/uploads/useiti_reporting_template_guidelines_-_20170117_-_draft_1.pdf. A draft template for declaring beneficial ownership information is available at: https://www.doi.gov/sites/doi.gov/files/uploads/draft-model-beneficial-ownership-declaration-form_1.xlsx.

Veronika Kohler, National Mining Association and Industry Sector Co-Chair, noted that the MSG has already approved a roadmap for disclosing information about beneficial ownership of publicly traded companies and inquired as to how this would be reported by companies. Mr. Gould suggested that the reporting template around beneficial ownership be included in the main reporting form even though it would only apply to publicly traded companies.

In response to a question from Mr. Matthews, Mr. Klepacz clarified that the reporting template would also ask companies to report payor codes, as they have in previous years of USEITI.

Mr. Padilla commented that the industry sector anticipates that there may be a high degree of variability in companies' approach to reporting for the 2017 report in terms of the degree to which companies aggregate or break out information and classify revenue streams. Some companies may provide very detailed information due to having compiled it for other reporting requirements, such as the EU directive.

The MSG approved the proposed reporting template for 2017.

- **Decisions: The MSG approved the proposed reporting template for 2017.**

2. 2017 Topics and Visualizations

Luke Hawbaker, Independent Administrator team member from Deloitte, presented about possible additions that the MSG could choose to make to the contextual narrative portion of the 2017 USEITI Report. Mr. Hawbaker's slides are available at: https://www.doi.gov/sites/doi.gov/files/uploads/2017_useiti_contextual_narrative_topics_msg_presentation_updated_1.pdf.

Responding to questions from MSG members, Ms. Wilson explained that USEITI has included three additional visualizations in its scope of work with the Independent Administrator for 2017. Based on the MSG's prior discussions, the Independent Administrator is anticipating that one visualization will focus on employment by commodity, a second on US audit and assurance procedures, and a third topic is to be determined by the MSG. These additional visualizations would be included in the report in 2017 and in future years. Ms. Kohler added that the Co-Chairs had proposed adding a "special highlight," either on forestry or on renewable energy, based on past MSG discussions.

MSG members discussed the criteria by which to make a decision about which topics and visualizations to add to the 2017 report. John Cassidy, IA team member from Deloitte, noted that the two criteria that the IA has been considering are: 1) increasing public engagement and interest in USEITI and 2) strengthening the case for USEITI validation with the International EITI Board. Ms. Kohler cautioned that the MSG does

not have a strong sense of what would interest the public since there has been limited public engagement with USEITI.

Following Mr. Hawbaker's presentation, the MSG discussed a variety of different options for additional content to include in the 2017 Report. The MSG's discussion is summarized below and organized by the different options considered with a final section focusing on the decisions made by the MSG to move forward.

a) *Employment by Commodity*

In response to requests by Mr. Hawbaker and Sarah Platts, Independent Administrator team member from Deloitte, to decide on whether to use data sets from the Bureau of Labor Statistics or from the US Census Bureau to present information about employment by commodity, Ms. Brian thanked Deloitte for their work and requested that CSO sector member Betsy Taylor be given more time to examine both data sets. Mr. Padilla requested that a note be included in the report indicating that the employment data only includes salaried and hourly employees not pass-through entities, sole proprietorships, and others.

The MSG opted to move forward with Mr. Gould's suggestion that the Implementation Committee consider and decide on which dataset to use to provide information for employment by commodity.

- **Approval: The MSG approved the motion to have the Implementation Committee decide on which dataset to use to provide information for employment by commodity.**

b) *Audit & Assurances*

Mr. Hawbaker provided an overview of existing content about the US audit and assurance process and of potential new content that could be added with the intention of strengthening USEITI's case for mainstreaming and foregoing independent reconciliation by the Independent Administrator. Mr. Bugala suggested that USEITI use an alternate term for "foregoing reconciliation," such as "not reconciling twice."

Ms. Brian raised the possibility of including the information that Mr. Kronebusch has developed about US audit and assurance processes in lieu of having the Independent Administrator create new content about this topic. Mr. Cassidy asked whether Mr. Kronebusch's material may be too complex for many members of the public to understand. In response, Ms. Brian suggested that information about audit and assurance procedures would likely be difficult for many members of the public to understand in any format.

Ms. Kohler suggested that including clear information about the US audit and assurance process in the USEITI report would also help to give the public more confidence in the audit process. Ms. Brian and Mr. Gould raised a concern that a visualization about the

audit and assurance process would not prove to be useful to the general public while also not providing the detailed information that well-informed parties would need to develop that additional confidence in the audit process.

Mr. Gould suggested that the USEITI Secretariat could put together information explaining US audit and assurance procedures for making the case to the EITI Board that USEITI does not need to reconcile revenues separately and redundantly through a Independent Administrator. Pursuing this path, the IA would not need to create additional content about this topic for the USEITI report nor a separate visualization from the one that was created last year.

c) Additional Metals

Keith Romig, United Steelworkers, suggested adding a “special highlight on additional metals” (such as silver, aluminum, lead, and zinc) because some MSG members are already knowledgeable about these commodities, in contrast to two other proposed “special highlights” – on forestry and on renewable energy. He also suggested that USEITI would likely need to expand its scope over time to include these additional metals, and possibly non-metal minerals.

Mr. Matthews suggested adding other commodities, such as trona, that are subject to federal royalty payments.

d) The Life of a Lease

Mr. Bugala suggested that additional information about the “life of a lease” be added to the contextual narrative, either in the form of a new visualization created by the Independent Administrator or by including material created by Mr. Kronebusch about federal leasing.

Ms. Wilson stated that the USEITI Secretariat and GSA 18F can try to include information about leasing in the 2017 Report but that this may be a challenge given limited time and resources. Mr. Bugala responded that if the Secretariat could make a good faith effort to include information about leasing in the 2017 Report then he does not need this topic to be considered for inclusion as an IA-produced visualization.

e) Forestry

Mr. Gould observed that USEITI has been discussing forestry for some time and has had challenges adding forestry representatives to the MSG. He suggested that adding a special highlight on forestry could provide information about forestry for relatively little effort while also stoking interest in including forestry in the scope of USEITI in a fuller way in the future.

f) Renewable Energy

Ms. Brian suggested that there exists much interest in the general public about renewable energy and the jobs being created in that industry, and so it may be beneficial to add a special highlight on renewable energy to the 2017 USEITI Report.

g) The MSG's Decision-Making About Topics and Visualizations to Include

Given the wide range of discussion and many topics under consideration for inclusion in the 2017 report, Ms. Kohler emphasized that rational criteria should be used to determine which topics would be included and that, if topics such as “additional metals” or the “life of a lease” are included, then the MSG would need to understand better what these topics would entail, as they have not been discussed much by the MSG in the past.

Mr. Bugala noted that having the Implementation Subcommittee consider issues of this nature before they come to the full MSG could streamline discussions during MSG meetings.

The MSG agreed to have the USEITI Secretariat work with GSA 18F to add material for the 2017 USEITI Report about the US audit and assurance procedures and for the USEITI Secretariat to make a “good faith effort” to include information about “the life of a lease” in the 2017 USEITI Report.

Mr. Cassidy suggested that the IA could further flesh out the contours of the following topics: additional metals, forestry, and renewable energy, and present these to the Implementation Subcommittee for decision-making.

- **Decision:** The MSG decided to have the USEITI Secretariat work with GSA 18F to add material for the 2017 USEITI Report about US audit and assurance procedures and for the USEITI Secretariat to make a “good faith effort” to include information about “the life of a lease” in the 2017 USEITI Report.
- **Approval:** The MSG approved the motion to have the Implementation Committee decide on which two additional visualizations (between additional metals, forestry, and renewable energy) to include in the 2017 USEITI Report, along with a visualization about employment by commodity.

F. Project Level Reporting

Mr. Kronebusch and Nathan Brannberg, DOI, presented information about project-level data disclosure and the process of requesting project-level data from the US Office of Natural Resources Revenue (ONRR). They also presented about the types of data requested received by ONRR during FY2016. Additional information is available in Mr. Kronebusch's and Mr. Brannberg's presentation, available at: https://www.doi.gov/sites/doi.gov/files/uploads/obtaining_project_level_info_from_onrr_final_1-30-17.pdf.

In response to their presentation, an MSG member from the CSO sector pushed back on the assertion from Mr. Kronebusch and Mr. Brannberg that not many members of the public are interested in detailed data. She suggested, instead, that the public has lost

faith in the Freedom of Information Act (FOIA) process and the difficulty in obtaining information.

IV. Public Comments

Public comments were accepted in written form for this MSG meeting, as described in the “Adjustment of Meeting Schedule and Agenda” section, on page 6 of this summary. Written public comments received are provided below.

Nancy Harkins

West Chester, PA

nancyharkins651@gmail.com

The resource extraction transparency rule is critical to ensuring an informed and empowered electorate that is what President Trump has pledged to deliver. This cannot happen if we do not have this rule and we do not have a transparent government that does not marginalize individual voters in favor of the oil and gas industry.

If Trump is serious about giving power back to the people, then he must stop doing the bidding of the Chamber I oppose Republican efforts to undo critical rules protecting the environment and public welfare. In his inaugural address, Trump famously declared that alleged “American carnage stops right here and right now.” The resource extraction transparency rule would be of significant aid in stopping the all too real carnage taking place in countries afflicted by the resource curse, countries like Nigeria, the Democratic Republic of the Congo and Afghanistan. It’s time that Trump gets serious about putting people – all people – first, and corporate special interests like the Chamber, API and Big Oil companies second.

Thank you for making my comment part of the record.

Jennifer Krill, Earthworks

Extractive Industries Transparency should mean what it says. Unfortunately, by supporting the elimination of section 1504 of the Dodd Frank Act, even as it is being discussed over in the House of Representatives today, it is clear the MSG does not universally share the value of using financial transparency to eliminate corruption and promote best practices.

API's lobbying in support of 1504's repeal is a clear violation of our Terms of Reference. I want to express support for the statement made by CSO co-chair this morning calling for the removal of API from USEITI, a view we would hold with regard to any MSG members who oppose Section 1504. Any member company of API that has not publicly broken with API's position on 1504 should also not be part of USEITI.

Finally, it is inappropriate and disappointing to cancel public comments and unhealthy to limit public debate at today's MSG meeting.

V. Wrap Up / Closing

Mr. Patrick Field, facilitator from the Consensus Building Institute, reviewed the action items and the decisions coming out of the MSG meeting. Decisions will be recorded in an updated MSG Decision Matrix by the USEITI Secretariat.

Keith Romig asked to read out a statement on behalf of the CSO sector. The facilitator noted that the co-chairs had determined to move forward beyond the 1504 discussion the late morning. Mr. Romig read the note expressing disappointment about the MSG eliminating the verbal public comment period during the MSG meeting and also about the inappropriateness of the American Petroleum Institute's participation on the USEITI MSG. The text of Romig's comments are provided in Appendix B, available on page 20 of this meeting summary.

Following Mr. Romig's comments, Ms. Kohler stated that the public comment period was not eliminated and requested that the DFO adhere strictly to FACA protocols in the future. She suggested that the MSG had been too easy going in allowing people to speak on behalf of MSG members, allowing for interruptions, and the like, but that this approach was being abused by certain sectors. In response, the Acting DFO offered to review the MSG terms of reference and adhere to those.

Several members of the CSO sector raised their placards and requested to respond to Ms. Kohler's comments. The Acting DFO adjourned the meeting at this time.

VI. Meeting Participants

The following is a list of attendees from the February 1, 2017 USEITI MSG meeting.

Chaired by Judy Wilson, Acting Designated Federal Officer, for the USEITI Advisory Committee, US Department of the Interior.

A. Participating Primary Committee Members

Civil Society

Danielle Brian, Project on Government Oversight, USEITI MSG Advisory Committee Co-Chair

Paul Bugala, American University

Lynda Farrell, Pipeline Safety Coalition

Keith Romig Jr., United Steelworkers

Veronica Slajer, North Star Group

Government

Curtis Carlson, Department of the Treasury

Greg Gould, Department of the Interior, USEITI MSG Advisory Committee Co-Chair

Mike Matthews, State of Wyoming - Department of Audit/Mineral Audit Division

Mike Smith, Interstate Oil and Gas Compact Commission

Industry

Stella Alvarado, Anadarko Petroleum

Michael Blank, Peabody Energy

Susan Ginsberg, Independent Petroleum Association of America

Veronika Kohler, National Mining Association, USEITI MSG Advisory Committee Co-Chair

Johanna Nesseth, Chevron

B. Committee Alternates in Attendance

Civil Society

Daniel Dudis, Public Citizen

Zorka Milin, Global Witness

Government

Jim Steward, Department of the Interior

Industry

Aaron Padilla, American Petroleum Institute

David Romig, Freeport-McMoRan Oil & Gas

Nick Welch, Noble Energy Inc.

C. Members of the Independent Administrator Team in Attendance

John Cassidy, Deloitte

Luke Hawbaker, Deloitte

Alex Klepacz, Deloitte

Sarah Platts, Deloitte

D. Government, MSG Members or Alternates via Phone, and Members of the Public in Attendance

Rebecca Adamson, First Peoples Worldwide

Avery, Concerned Citizen

Joyce Aober, USGS

Sam Bartlett, EITI

Neil Brown, Lugar Center

David Chambers, Center for Science in Public Participation

Spencer King

Jennifer Krill, Earthworks

Mike LeVine, Oceana

Nicole Levine, Oceana

Laura Logan

Julie Maldonado, Livelihoods Knowledge Exchange Networks

Waseem Mardini, Publish What You Pay US

Aaron Mintzes, Earthworks

Sara Porter, Private Citizen

P. Rucker

Rosalie Satta, University of CA Santa Barbara

Mia Steinle, Project on Government Oversight

Betsy Taylor, Virginia Polytechnic Institute and State University

Catherine Traywick, Bloomberg News

Micah Watson, Department of State

Claire Ware, Eastern Shoshone & Northern Arapaho Tribes

Joseph Williams, Metro Resource Governance Institute

E. Facilitation Team

Patrick Field, Consensus Building Institute

Tushar Kansal, Consensus Building Institute

F. DOI MSG Support Team

Nathan Brannberg, Office of Natural Resources Revenue

A. Evans, Office of Natural Resources Revenue

Jerry Gidner, Office of Natural Resources Revenue

Jennifer Goldblatt, Office of Natural Resources Revenue

Robert Kronebusch, Office of Natural Resources Revenue

Darrel Redford, Office of Natural Resources Revenue

Judy Wilson, Office of Natural Resources Revenue

VII. Documents Distributed

Agenda ([PDF](#))

November MSG Meeting Summary ([PDF](#))

Meeting Notes from January 11th Improving Reporting Workshop ([PDF](#))

Draft Reporting Template ([XLS](#))

Draft Reporting Guidelines ([PDF](#))

Template EITI Beneficial Ownership Declaration Form ([XLS](#))

Communications Plan ([PDF](#))

VIII. Appendix A

Opening comments provided by Daniel Brian on behalf of the CSO sector:

Today the House and possibly the Senate are preparing to vote on whether to disapprove the Cardin-Lugar 1504 rule. As all of you who have been working on USEITI know, we have been waiting for months, years, for that rule to be finalized so that we could move forward with our work. 1504 is the cornerstone of USEITI and civil society vociferously objects to its gutting.

During these past years we have been told repeatedly that industry will not voluntarily disclose more than what is required of them by law. To be fair, despite that, several companies have honored the spirit of EITI and have gone beyond what was already legally required and disclosed their tax payments even before 1504 was implemented. And we thanked those companies by name in the last report. And we have been punting on the basic EITI requirements of tax disclosure and project level reporting because we were told we had to wait for the rule before we could do more.

I now ask our government and industry colleagues to please join me in expressing our opposition to the misguided effort to disapprove the rule. If any of the companies who have already supported the disclosure of taxes and project level reporting are willing to make their voices heard now, before the House and Senate vote, we might be able to prevent the loss of this anti-corruption measure.

We in civil society believe that the lobbying effort by the American Petroleum Institute to kill the 1504 rule is particularly galling, in that in their fact sheets, API uses their participation in USEITI as evidence that they believe in transparency. In those same documents API claims the disclosures required by 1504- which are complementary to EITI standards - are anti-competitive- even though their competitors are held to the same standards through the EU and Canadian rules. In other words, they never intended to support disclosure of taxes by company or project level reporting of other revenue streams.

We know that Aaron has been working hard on USEITI and he is not personally responsible for the positions of his employer, but it is simply unacceptable for API to continue to benefit from the goodwill generated from their boasting of their participation in USEITI while at the same time actively working to directly undermine our success. As a result, civil society is formally requesting that the DFO remove API from the MSG.

IX. Appendix B

Comment made by Keith Romig:

Just before I do [make a comment on behalf of the CSO sector] I'm going to make a statement on my own behalf as it's a shame that we ended up eliminating the verbal public comment period and the irony of that is that quite often when we open up the microphones for public comment there's a dead silence for ten minutes. This is one of the very few when we might've had fairly extensive public comment and it's a shame we didn't get to hear it. But that's just my statement, my personal statement. The formal statement follows.

Written statements are being submitted by CSOs and by this I mean, among others, members of this committee not able to be present including Neil Brown, Michael Levine, Betsy Taylor, Jennifer Krill and several others expressing concern, frustration and protest about the elimination of public comment at today's meeting. Many of CSOs are sending separate written messages expressing the inappropriateness of the American Petroleum Institute's participation in EITI while lobbying against 1504.